Department of Homeland Security Waivers Compared

By DHS Secretary, date notice of determination was published in the *Federal Register*, and dominant geography. Order of laws re-arranged to facilitate comparison.

Chertoff 9/22/05	Chertoff 1/19/07	Chertoff 10/26/07	Chertoff 4/8/08	Chertoff 4/8/08	Kelly 8/2/17	Duke 9/12/17	Nielsen 1/22/18
San Diego Co., CA	Barry Goldwater Range, AZ	San Pedro River, AZ	Hidalgo Co., TX	Intermittent	San Diego Co., CA	Calexico, CA	Santa Teresa, NM
{1} The National Environmental Policy Act (Pub. L. 91-190, 83 Stat. 852 (Jan. 1,1970) (42 U.S.C. 4321 *et seq.*))	{1} the National Environmental Policy Act (Pub. L. 91-190, 83 Stat. 852 (Jan. 1,1970) (42 U.S.C. 4321 *et seq.*))	{1} The National Environmental Policy Act (Pub. L. 91-190, 83 Stat. 852 (Jan. 1,1970) (42 U.S.C. 4321 *et seq.*))	{1} The National Environmental Policy Act (Pub. L. 91-190, 83 Stat. 852 (Jan. 1,1970) (42 U.S.C. 4321 *et seq.*))	{1} The National Environmental Policy Act (Pub. L. 91-190, 83 Stat. 852 (Jan. 1, 1970) (42 U.S.C. 4321 *et seq.*))	{1} The National Environmental Policy Act (Pub. L. 91–190, 83 Stat. 852 (Jan. 1, 1970) (42 U.S.C. 4321 *et seq.*))	{1} The National Environmental Policy Act (Pub. L. 91–190, 83 Stat. 852 (Jan. 1, 1970) (42 U.S.C. 4321 *et seq.*))	{1} The National Environmental Policy Act (Pub. L. 91–190, 83 Stat. 852 (Jan. 1, 1970) (42 U.S.C. 4321 *et seq.*))
{2} the Endangered Species Act (Pub. L. 93-205, 87 Stat. 884 (Dec. 28, 1973) (16 U.S.C. 1531 *et seq.*))	{2} the Endangered Species Act (Pub. L. 93-205, 87 Stat. 884 (Dec. 28, 1973) (16 U.S.C. 1531 *et seq.*))	{2} the Endangered Species Act (Pub. L. 93-205, 87 Stat. 884 (Dec. 28, 1973) (16 U.S.C. 1531 *et seq.*))	{2} the Endangered Species Act (Pub. L. 93-205, 87 Stat. 884 (Dec. 28, 1973) (16 U.S.C. 1531 *et seq.*))	{2} the Endangered Species Act (Pub. L. 93-205, 87 Stat. 884 (Dec. 28, 1973) (16 U.S.C. 1531 *et seq.*))	{2} the Endangered Species Act (Pub. L. 93–205, 87 Stat. 884 (Dec. 28, 1973) (16 U.S.C. 1531 *et seq.*))	{2} the Endangered Species Act (Pub. L. 93–205, 87 Stat. 884 (Dec. 28, 1973) (16 U.S.C. 1531 *et seq.*))	{2} the Endangered Species Act (Pub. L. 93–205, 87 Stat. 884 (Dec. 28, 1973) (16 U.S.C. 1531 *et seq.*))
{4} the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act) (Act of June 30, 1948, c758, 62 Stat. 1155 (33 U.S.C. 1251 *et seq.*))	{3} the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act) (Act of June 30, 1948, c758, 62 Stat. 1155 (33 U.S.C. 1251 *et seq.*))	{3} the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act) (Act of June 30, 1948, c758, 62 Stat. 1155 (33 U.S.C. 1251 *et seq.*))	{3} the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act) (33 U.S.C. 1251 *et seq.*))	{3} the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act) (33 U.S.C. 1251 *et seq.*))	{3} the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act (33 U.S.C. 1251 *et seq.*))	{3} the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act (33 U.S.C. 1251 *et seq.*))	{3} the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act (33 U.S.C. 1251 *et seq.*))
{5} the National Historic Preservation Act (Pub. L. 89-665, 80 Stat. 915 (Oct. 15, 1966) (16 U.S.C. 470 *et seq.*))	{5} the National Historic Preservation Act (Pub. L. 89-665, 80 Stat. 915 (Oct. 15, 1966) (16 U.S.C. 470 *et seq.*))	{4} the National Historic Preservation Act (Pub. L. 89-665, 80 Stat. 915 (Oct. 15, 1966) (16 U.S.C. 470 *et seq.*))	{4} the National Historic Preservation Act (Pub. L. 89-665, 80 Stat. 915 (Oct. 15, 1966) (16 U.S.C. 470 *et seq.*))	{4} the National Historic Preservation Act (Pub. L. 89-665, 80 Stat. 915 (Oct. 15, 1966) (16 U.S.C. 470 *et seq.*))	{4} 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.*))	{4} the National Historic Preservation Act (Pub. L. 89–665, 80 Stat. 915 (Oct. 15, 1966), as amended, repealed, or replaced by Public Law 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.*))	{4} 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.*))
{6} the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*)		{5} the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*)	{5} the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*)	{5} the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*)	{5} the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*)	{5} the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*)	{5} the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*)
					{6} the Migratory Bird Conservation Act (16 U.S.C. 715 *et seq.*)	{6} the Migratory Bird Conservation Act (16 U.S.C. 715 *et seq.*)	{6} the Migratory Bird Conservation Act (16 U.S.C. 715 *et seq.*)
{7} the Clean Air Act (42 U.S.C. 7401 *et seq.*)		{6} the Clean Air Act (42 U.S.C. 7401 *et seq.*)	{6} the Clean Air Act (42 U.S.C. 7401 *et seq.*)	{6} the Clean Air Act (42 U.S.C. 7401 *et seq.*)	{7} the Clean Air Act (42 U.S.C. 7401 *et seq.*)	{7} the Clean Air Act (42 U.S.C. 7401 *et seq.*)	{7} the Clean Air Act (42 U.S.C. 7401 *et seq.*)
		{7} the Archeological Resources Protection Act (Pub. L. 96-95, 16 U.S.C. 470aa *et seq.*)	{7} the Archeological Resources Protection Act (Pub. L. 96-95, 16 U.S.C. 470aa *et seq.*)	{7} the Archeological Resources Protection Act (Pub. L. 96-95, 16 U.S.C. 470aa *et seq.*)	{8} the Archeological Resources Protection Act (Pub. L. 96–95 (16 U.S.C. 470aa *et seq.*))	{8} the Archeological Resources Protection Act (Pub. L. 96–95 (16 U.S.C. 470aa *et seq.*))	{8} the Archeological Resources Protection Act (Pub. L. 96–95 (16 U.S.C. 470aa *et seq.*))
					{9} the Paleontological Resources Preservation Act (16 U.S.C. 470aaa *et seq.*)	{9} the Paleontological Resources Preservation Act (16 U.S.C. 470aaa *et seq.*)	{9} the Paleontological Resources Preservation Act (16 U.S.C. 470aaa *et seq.*)
					{10} the Federal Cave Resources Protection Act of 1988 (16 U.S.C. 4301 *et seq.*)	{10} the Federal Cave Resources Protection Act of 1988 (16 U.S.C. 4301 *et seq.*)	{10} the Federal Cave Resources Protection Act of 1988 (16 U.S.C. 4301 *et seq.*)
					{11} the National Trails System Act (16 U.S.C. 1241 *et seq.*)		
		{8} the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*)	{8} the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*)	{8} the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*)	{12} the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*)	{11} the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*)	{11} the Safe Drinking Water Act (42 U.S.C. 300f *et seq.*)
		{9} the Noise Control Act (42 U.S.C. 4901 *et seq.*)	{9} the Noise Control Act (42 U.S.C. 4901 *et seq.*)	{9} the Noise Control Act (42 U.S.C. 4901 *et seq.*)	{13} the Noise Control Act (42 U.S.C. 4901 *et seq.*)	{12} the Noise Control Act (42 U.S.C. 4901 *et seq.*)	{12} the Noise Control Act (42 U.S.C. 4901 *et seq.*)
		{10} the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*)	{10} the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*)	{10} the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*)	{14} the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*)	{13} the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*)	{13} the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*)
		{11} the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 *et seq.*)	{11} the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 *et seq.*)	{11} the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 *et seq.*)	{15} the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 *et seq.*)	{14} the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 *et seq.*)	{14} the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 *et seq.*)
		{14} the Archaeological and Historic Preservation Act (Pub. L. 86-523, 16 U.S.C. 469 *et seq.*)	{12} the Archaeological and Historic Preservation Act (Pub. L. 86-523, 16 U.S.C. 469 *et seq.*)	{12} the Archaeological and Historic Preservation Act (Pub. L. 86-523, 16 U.S.C. 469 *et seq.*)	{16} the Archaeological 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.*))	{15} the Archaeological and Historic Preservation Act (Pub. L. 86–523, as amended, repealed, or replaced by Public Law 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.*))	{15} the Archaeological 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.*))
		{15} the Antiquities Act (16 U.S.C. 431 *et seq.*)	{13} the Antiquities Act (16 U.S.C. 431 *et seq.*)	{13} the Antiquities Act (16 U.S.C. 431 *et seq.*)	{17} the Antiquities Act (formerly codified at 16 U.S.C. 431 *et seq.*, now codified 54 U.S.C. 320301 *et seq.*)	{16} the Antiquities Act (formerly codified at 16 U.S.C. 431 *et seq.*, now codified 54 U.S.C. 320301 *et seq.*)	{16} the Antiquities Act (formerly codified at 16 U.S.C. 431 *et seq.*, now codified 54 U.S.C. 320301 *et seq.*)
		{16} the Historic Sites, Buildings, and Antiquities Act (16 U.S.C. 461 *et seq.*)	{14} the Historic Sites, Buildings, and Antiquities Act (16 U.S.C. 461 *et seq.*)	{14} the Historic Sites, Buildings, and Antiquities Act (16 U.S.C. 461 *et seq.*)	{18} 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)	{17} 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)	{17} 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)
		{17} the Arizona-Idaho Conservation Act of 1988 (Pub. L. 100-696, 16 U.S.C. 460xx *et seq.*)					
		{18} the Wild and Scenic Rivers Act (Pub. L. 90-542, 16 U.S.C. 1281 *et seq.*)		{15} the Wild and Scenic Rivers Act (Pub. L. 90-542, 16 U.S.C. 1281 *et seq.*)	{19} the Wild and Scenic Rivers Act (Pub. L. 90–542 (16 U.S.C. 1281 *et seq.*))		
		{19} the Farmland Protection Policy Act (7 U.S.C. 4201 *et seq.*)	{15} the Farmland Protection Policy Act (7 U.S.C. 4201 *et seq.*)	{16} the Farmland Protection Policy Act (7 U.S.C. 4201 *et seq.*)	{20} the Farmland Protection Policy Act (7 U.S.C. 4201 *et seq.*)	{18} the Farmland Protection Policy Act (7 U.S.C. 4201 *et seq.*)	{18} the Farmland Protection Policy Act (7 U.S.C. 4201 *et seq.*)
{3} the Coastal Zone Management Act (Pub. L. 92-583, 86 Stat 1280 (Oct. 27, 1972) (16 U.S.C. 1451 *et seq.*)			{16} the Coastal Zone Management Act (Pub. L. 92-583, 16 U.S.C. 1451 *et seq.*)	{17} the Coastal Zone Management Act (Pub. L. 92-583, 16 U.S.C. 1451 *et seq.*)	{21} the Coastal Zone Management Act (Pub. L. 92–583 (16 U.S.C. 1451 *et seq.*))		
	{4} the Wilderness Act (Pub. L. 88-577, 16 U.S.C. 1131 *et seq.*)			{18} the Wilderness Act (Pub. L. 88-577, 16 U.S.C. 1131 *et seq.*)	{22} the Wilderness Act (Pub. L. 88–577 (16 U.S.C. 1131 *et seq.*))		
		{12} the Federal Land Policy and Management Act (Pub L. 94- 579, 43 U.S.C. 1701 *et seq.*)	{17} the Federal Land Policy and Management Act (Pub L. 94- 579, 43 U.S.C. 1701 *et seq.*)	{19} the Federal Land Policy and Management Act (Pub L. 94- 579, 43 U.S.C. 1701 *et seq.*)	{23} the Federal Land Policy and Management Act (Pub. L. 94–579 (43 U.S.C. 1701 *et seq.*))	{19} the Federal Land Policy and Management Act (Pub. L. 94–579 (43 U.S.C. 1701 *et seq.*))	{19} the Federal Land Policy and Management Act (Pub. L. 94–579 (43 U.S.C. 1701 *et seq.*))
	{6} the National Wildlife Refuge System Administration Act (Pub. L. 89-669, 16 U.S.C. 668dd-668ee)		{18} the National Wildlife Refuge System Administration Act (Pub. L. 89-669, 16 U.S.C. 668dd-668ee)	{20} the National Wildlife Refuge System Administration Act (Pub. L. 89-669, 16 U.S.C. 668dd-668ee)	{24} the National Wildlife Refuge System Administration Act (Pub. L. 89–669 (16 U.S.C. 668dd–668ee))		
					{25} the National Wildlife Refuge System Improvement Act of 1997 (Pub. L. 105–57)		
						{20} section 10 of the Reclamation Project Act of 1939 (53 Stat. 1196, as amended by 64 Stat. 463 (43 U.S.C. 387))	
			{19} the Fish and Wildlife Act of 1956 (Pub. L. 84-1024, 16 U.S.C. 742a, *et seq.*)	{21} the Fish and Wildlife Act of 1956 (Pub. L. 84-1024, 16 U.S.C. 742a, *et seq.*)	{26} National Fish and Wildlife Act of 1956 (Pub. L. 84–1024 (16 U.S.C. 742a, *et seq.*))	{21} National Fish and Wildlife Act of 1956 (Pub. L. 84–1024 (16 U.S.C. 742a, *et seq.*))	{20} National Fish and Wildlife Act of 1956 (Pub. L. 84–1024 (16 U.S.C. 742a, *et seq.*))
		{13} the Fish and Wildlife Coordination Act (Pub. L. 73- 121, 48 Stat. 401, 16 U.S.C. 661 *et seq.*)	{20} the Fish and Wildlife Coordination Act (Pub. L. 73- 121, 16 U.S.C. 661 *et seq.*)	{22} the Fish and Wildlife Coordination Act (Pub. L. 73- 121, 16 U.S.C. 661 *et seq.*)	{27} the Fish and Wildlife Coordination Act (Pub. L. 73–121 (16 U.S.C. 661 *et seq.*))	{22} the Fish and Wildlife Coordination Act (Pub. L. 73–121 (16 U.S.C. 661 *et seq.*))	{21} the Fish and Wildlife Coordination Act (Pub. L. 73–121 (16 U.S.C. 661 *et seq.*))
					{28} the Wild Horse and Burro Act (16 U.S.C. 1331 *et seq.*)		
					{29} 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)		
{8} the Administrative Procedure Act (5 U.S.C. 551 *et seq.*)	{9} the Administrative Procedure Act (5 U.S.C. 551 *et seq.*)	{20} the Administrative Procedure Act (5 U.S.C. 551 *et seq.*)	{21} the Administrative Procedure Act (5 U.S.C. 551 *et seq.*)	{23} the Administrative Procedure Act (5 U.S.C. 551 *et seq.*)	{30} the Administrative Procedure Act (5 U.S.C. 551 *et seq.*)	{23} the Administrative Procedure Act (5 U.S.C. 551 *et seq.*)	{22} the Administrative Procedure Act (5 U.S.C. 551 *et seq.*)
				{24} the Otay Mountain Wilderness Act of 1999 (Pub. L. 106-145)	{31} the Otay Mountain Wilderness Act of 1999 (Pub. L. 106–145)		
				{25} Sections 102(29) and 103 of Title I of the California Desert Protection Act (Pub. L. 103-433), 50 Stat. 1827	{32} sections 102(29) and 103 of Title I of the California Desert Protection Act (Pub. L. 103–433)		
				{26} the National Park Service Organic Act (Pub. L. 64-235, 16 U.S.C. 1, 2-4)			
				{27} the National Park Service General Authorities Act (Pub. L. 91-383, 16 U.S.C. la-1 *et seq.*)			
				{28} Sections 401(7), 403, and 404 of the National Parks and Recreation Act of 1978 (Pub. L. 95-625)			
				{29} Sections 301(a)-(f) of the Arizona Desert Wilderness Act (Pub. L. 101-628)			
			{22} the Rivers and Harbors Act of 1899 (33 U.S.C. 403)	{30} the Rivers and Harbors Act of 1899 (33 U.S.C. 403)	{33} the Rivers and Harbors Act of 1899 (33 U.S.C. 403)	{24} the Rivers and Harbors Act of 1899 (33 U.S.C. 403)	
			{23} the Eagle Protection Act (16 U.S.C. 668 *et seq.*)	{31} the Eagle Protection Act (16 U.S.C. 668 *et seq.*)	{34} the Eagle Protection Act (16 U.S.C. 668 *et seq.*)	{25} the Eagle Protection Act (16 U.S.C. 668 *et seq.*)	{23} the Eagle Protection Act (16 U.S.C. 668 *et seq.*)
			{24} the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 *et seq.*)	{32} the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 *et seq.*)	{35} the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 *et seq.*)	{26} the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 *et seq.*)	{24} the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 *et seq.*)
			{25} the American Indian Religious Freedom Act (42 U.S.C. 1996)	{33} the American Indian Religious Freedom Act (42 U.S.C. 1996)	{36} the American Indian Religious Freedom Act (42 U.S.C. 1996)	{27} the American Indian Religious Freedom Act (42 U.S.C. 1996)	{25} and the American Indian Religious Freedom Act (42 U.S.C. 1996)
			{26} the Religious Freedom Restoration Act (42 U.S.C. 2000bb)	{34} the Religious Freedom Restoration Act (42 U.S.C. 2000bb)	{37} the Religious Freedom Restoration Act (42 U.S.C. 2000bb)	{28} the Religious Freedom Restoration Act (42 U.S.C. 2000bb)	
				{35} the National Forest Management Act of 1976 (16 U.S.C. 1600 *et seq.*)			
				{36} and the Multiple Use and Sustained Yield Act of 1960 (16 U.S.C. 528-531)			
			{27} the Federal Grant and Cooperative Agreement Act of 1977 (31 U.S.C. 6303-05)				

The purpose for waiving these laws is to facilitate the quick construction of border barriers. Authority for this waiver was provided by the Real ID Act of 2005 and is codified in Section 102(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note).

https://www.congress.gov/bill/109th-congress/house-bill/1268/text

https://www.law.cornell.edu/uscode/text/8/1103

Kenneth D. Madsen
Associate Professor of Geography
madsen.34@osu.edu

THE OHIO STATE UNIVERSITY
NEWARK

Maps and updates available at:
http://u.osu.edu/madsen.34/maps/

{7} the Military Lands Withdrawal Act of 1999 (Pub. L. 106-65, 113 Stat. 885 (Oct. 5, 1999))
{8} the Sikes Act (16 U.S.C. 670 *et seq.*)

updated:
2/8/18