

06-08262

H.R. 6061, the "Secure Fence Act of 2006

OBP Internal Routing Sheet

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Subject H.R. 6061, the "Secure Fence Act of 2006

Task/Comments Memo to Commissioner from Assisnat Commissioner of Office of Congressional Affairs

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**U.S. Customs and
Border Protection**

DATE: October 3, 2006

MEMORANDUM FOR: COMMISSIONER

FROM: Assistant Commissioner
Office of Congressional Affairs

SUBJECT: H.R. 6061, the "Secure Fence Act of 2006"

H.R. 6061 passed the House of Representatives on September 14th and the Senate on September 29th, and is pending signature by the President. It contains the same language as was included in the larger comprehensive immigration legislation considered earlier in the 109th Congress.

In an effort to provide maximum flexibility in the placement and funding of fencing and other barriers, the Office of Congressional Affairs is working with the Office of Chief Counsel to review the requirements of H.R. 6061 and the provisions in the Fiscal 2007 Homeland Security Appropriations Act.

H.R. 6061 is comprised of five sections:

- **Section 1:** names the bill as the Secure Fence Act of 2006.
- **Section 2:** provides that within 18 months of enactment, the Secretary of Homeland Security shall take all actions deemed necessary and appropriate to achieve operational control of the land and maritime borders, to include systematic surveillance and physical infrastructure enhancements. Section 2 defines "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. It further requires an annual report on progress made toward achieving operational control of the borders.
- **Section 3:** calls for approximately 700 miles of double-layer fencing, and additional physical barriers, roads, lighting, cameras, and sensors, to be installed along five separate segments of the southwest border excepting portions with an elevation grade in excess of ten percent. With respect to infrastructure comprising most of the border in Arizona and South Texas, this section mandates completion deadlines in 2007 and 2008.

While the manner in which Section 3 was drafted may create potential for confusion by what appears to have been an inadvertent overwriting of the

specific mandate in 1996 to construct the San Diego 14-mile Border Infrastructure System, and a clerical revision may therefore be appropriate, the position of the Department, particularly given that the fiscal year 2007 enrolled Homeland Security appropriation specifically provides funds for the San Diego Border Infrastructure System, is that the Congressional mandate to build the San Diego Border Infrastructure System remains in force.

- **Section 4:** requires that the Secretary conduct a study, and produce a report of that study within one year of enactment, regarding the feasibility of a "state-of-the-art infrastructure security system" along the northern land and maritime borders of the United States.
- **Section 5:** requires that within 30 days of enactment the Secretary perform an evaluation, and within 60 days of enactment produce a report, regarding the authority, equipment, and training of U.S. Customs and Border Protection to stop vehicles that illegally enter the United States.

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(b)(6);(b)(7)(C)

cc: Deputy Commissioner
Chief of Staff
Chief, Border Patrol
Chief Counsel