County Of Otero
New Mexico

ADMINISTRATION
1101 New York Avenue
Alamogordo, NM 88310

www.co.otero.nm.us
(575) 437-7427
(575) 443-2928

March 9th, 2021

Daniel A. McGrath, Esq.,
American Oversight, Inc.
1030 Fifteenth Street, N.W., Suite B255
Washington, D.C. 20005

Via e-mail to records@americanoversight.org

Re: IPRA 21PRR040/Your Number NM-OTERO-21-0275

Dear Counselor:

This is to further reply to your request under the Inspection of Public Records Act dated March 1st. I previously wrote you about this matter in my letters of March 2nd and March 3rd.

The first item of your request asked for e-mails sent by Commissioner Couy Griffin from January 1st to January 14th that contained any of a series of twenty-one keywords. A search has been made of Commissioner Griffin's e-mails for that time period and those keywords. Attached are files responsive to your request.

This completes Otero County's response to your request. If any items in your request have been overlooked, please let me know.

If you have any questions, please telephone me at 575-437-7427 or via e-mail to meshleman@co.otero.nm.us.

With warm regards, I am,

Yours very truly,

Michael Eshleman,
Otero County Attorney

cc: Sylvia C. Tillbrook, Records Custodian

AMERICAN OVERSIGHT

From: meshleman@co.otero.nm.us <meshleman@co.otero.nm.us>
Sent: Thursday, January 14, 2021 12:41 PM EST
To: Couy Griffin <cgriffin@co.otero.nm.us>; Gerald Matherly <gmatherly@co.otero.nm.us>; Vickie Pruiett Marquardt <vmarquardt@co.otero.nm.us>
CC: Pamela S. Heltner <pheltner@co.otero.nm.us>
Subject: "A "forever" drought takes shape in the West"
Attachment(s): "A _forever_ drought takes shape in the West - Axios 2021-01-14.pdf"

Dear Commissioners,

FYI.

https://www.axios.com/a-forever-drought-takes-shape-in-the-west-d80155a7-2fc3-40c6-a5d6-0aa085e95f9f.html

Michael

Michael Eshleman
Otero County Attorney
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AMERICAN OVERSIGHT

AXIOS

8 hours ago - Science

A "forever" drought takes shape in the West



Jennifer A. Kingson



Illustration: Aïda Amer/Axios

AMERICAN OVERSIGHT

AXIOS

set a record in Colorado for the most days of "exceptional drought."

Why it matters: These conditions may be the new normal rather than an exception, water experts say, as climate change runs its course. And worsening drought will intensify political and legal battles over water — with dire consequences for poor communities.

Where it stands: The U.S. Drought Monitor — the nation's official tally — shows Utah, Arizona, Colorado and New Mexico mired in "exceptional drought." This type of drought is only supposed to happen every 50 years, but it's now a regular occurrence.

- Even if rain and snow arrive this January, February and March, parched soil and vegetation will slurp it up, leaving less for riverbeds.
- An ongoing "snow drought" is delivering fewer flakes, which means there'll be less snowpack to melt into Western watersheds this spring.
- Officials are bracing for what could be an unusually devastating wildfire season — the second in a row — and farmers are scrambling to ensure they can irrigate their crops.

"The word 'drought' can be a little misleading if we use it to imply we're here temporarily," John Fleck, director of the University of New Mexico's Water Resources Program, tells Axios. "We've been here 'temporarily' for 20 years now, with a preponderance of dry years and only a few wet years sprinkled in."

AMERICAN OVERSIGHT

summer, when the annual Southwest monsoon — which runs from June to September — was supposed to bring much-needed rains.

- But the 2020 monsoon failed to materialize — some called it a "non-soon."
- And fall and early winter have seen less-than-average precipitation.
- La Niña conditions — which suppress rainfall — strengthened in October and are expected to continue.

"Even when the rains return, the temperatures are not going to go back to what they used to be," Daniel Swain, a U.C.L.A. climate scientist, tells Axios. "The overall scarcity problem, especially in the West, is not going away."

- That will lead to ever-larger battles among states and localities over water rights and access, which have been a hallmark of Western politics for centuries.
- It will also mean that low-income communities like Porterville, Calif. — which famously ran out of running water in 2014 — will suffer disproportionately.

Between the lines: Even if cities and states imposed draconian water restrictions, it wouldn't make much difference.

- Agriculture consumes much more water than households, so the water we use to wash [illegible]

AMERICAN OVERSIGHT

- Water inequity means that "Phoenix and L.A. are not going to run out of water, but if you're on a remote part of the Navajo Nation, you very well may," Swain says.

- A study published last April in the journal Science concluded that "global warming has pushed what would have been a moderate drought in southwestern North America into megadrought territory."

Flashback: On April 1, 2015, then-governor Jerry Brown of California declared the state's first mandatory water restrictions.

- That period of drought had people "shower-shaming" one another, ripping out green lawns to plant succulents, villainizing almond growers, and competing to drill ever-deeper wells.

The bottom line: There's still time for conditions to improve — which meteorologists hope for, but don't anticipate. "Wven if it were very wet in the next few months, most of the interior West would still be in a severe drought," Karl Wetlaufer, a hydrologist with the USDA's snow survey program in Colorado, tells Axios.

- "A likelier outcome is that the situation gets worse."

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AXIOS

Go deeper

Oriana Gonzalez
16 hours ago - Politics & Policy

Former Michigan Gov. Rick Snyder

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Rick Snyder. Photo: Bill Pugliano/Getty Images

Former Michigan Gov. Rick Snyder (R) was charged with two counts of willful neglect of duty in an investigation into the Flint water crisis, according to Genessee County District Court records and multiple local reports on Wednesday.

Why it matters: Flint saw its drinking water contaminated with high levels of lead in 2014, spurring a public health disaster. The lead-contaminated water was blamed for an outbreak of Legionnaires disease that killed at least 12 people.

Go deeper (1 min. read) ⟶

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Ursula Perano
21 mins ago - Politics & Policy

Biden to pick Jaime Harrison to head Democratic National Committee

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President-elect Biden plans to pick former South Carolina Senate candidate Jaime Harrison to chair the Democratic National Committee, Axios has confirmed.

Why it matters: Harrison rose to national prominence while running in 2020 to unseat Sen. Lindsey Graham (R-S.C.), a close ally of President Trump. The Democrat smashed the all-time Senate fundraising record by raising $57 million in the third quarter of 2020, but ultimately lost to Graham by 10 points.

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Dan Primack, author of Pro Rata
2 hours ago - Economy & Business

Venture capital's record-smashing year

Illustration: Rebecca Zisser/Axios

Just weeks into the pandemic, we reported that

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Driving the news: U.S.-based venture capital hit an all-time record in 2020.

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Illustration: Aïda Amer/Axios

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AMERICAN OVERSIGHT

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Illustration: Rebecca Zisser/Axios

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From: meshleman@co.otero.nm.us <meshleman@co.otero.nm.us>
Sent: Tuesday, March 09, 2021 12:22 PM EST
To: records@americanoversight.org <records@americanoversight.org>
CC: Sylvia C. Tillbrook <stillbrook@co.otero.nm.us>
Subject: RE: Public Records Request (NM-OTERO-21-0275) (OC File #21PRR040)
Attachment(s): "Fwd: EDD Resource Wrap Up","CivicEngage Enhancements | Join the ENGAGEXCHANGE Community","riot","I don't recommend it","In remembrance","KRQE interview","KSFR public radio Santa Fe request for interview","Litigation update, January 2021","NMGOP Email","Not peaceful","Orange letter day","RESIGN!","Resign","Shame on You","Spam:******, Article: Erasing Donald Trump","Spam:*****, ☎ White House IGA COVID-19 Call Invite White House IGA Weekly Recap","Spam:*****, Farewell and Thank You!","Spam:*****, Round 2 of $timulus delayed, businesses push back, and more","Spam:*****, White House IGA Weekly Recap: 33rd COVID-19 National Briefing Call","Spam:*****, White House IGA Weekly Recap: 33rd COVID-19 National Briefing Call","Trump campaign files motion to dismiss NM election lawsuit | KOB 4","Trump pressures Georgia's Raffensperger to overturn his defeat in extraordinary call - The Washington Post","Who do you think you are, trump is a COWARDLY republican Communist Dictator You don't have the right to exist..","8 Senators, 139 House Reps who vote to throw out 188 million American votes for Donald Trump - Remember these people and vote them out of office.","Based on buried negative reactions to the vaccines in drug trials public is unaware of - something to think about !","Behavior","Cowboys for Trump founder praises pro-Trump rioters | KOB 4","Cowboys for Trump","Dumb fuck","Fw: Linebery weekly email (federal register)","Going to DC again?","FW: Phase 1B Vaccine Activation Plan REVISED","Reminder: Webinar Tomorrow! Learning in a Pandemic","Spam:******, Article: Washington's Reichstag moment","Spam:*****, ☎ White House IGA COVID-19 Call Invite White House IGA Weekly Recap","Spam:*****, Farewell and Thank You!","Spam:*****, White House IGA Weekly Recap: 33rd COVID-19 National Briefing Call","Spam:*****, White House IGA Weekly Recap: 33rd COVID-19 National Briefing Call","Trump pressures Georgia's Raffensperger to overturn his defeat in extraordinary call - The Washington Post","Washington Post request ","your abysmal action in DC last Wed","Attention Educators and Families! Webinar: Learning in a Pandemic","Based on buried negative reactions to the vaccines in drug trials public is unaware of - something to think about !","Fw: Linebery weekly email (federal register)"

EXTERNAL SENDER

Please find attached additional e-mails responsive to your request.

There were two e-mails withheld from disclosure that hit on the keywords in your request. The basis for withholding those e-mails was attorney-client privilege.

Michael Eshleman
Otero County Attorney
Otero County Administration Building
1101 New York Avenue
Alamogordo, New Mexico 88310
575-437-7427 (telephone)
866-986-8376 (toll-free)
575-443-2928 (facsimile)
meshleman@co.otero.nm.us

From: meshleman@co.otero.nm.us <meshleman@co.otero.nm.us>
Sent: Tuesday, March 9, 2021 10:18 AM
To: 'records@americanoversight.org' <records@americanoversight.org>
Cc: Sylvia C. Tillbrook (stillbrook@co.otero.nm.us) <stillbrook@co.otero.nm.us>
Subject: RE: Public Records Request (NM-OTERO-21-0275) (OC File #21PRR040)

Please find attached additional e-mails responsive to your request.

Michael Eshleman
Otero County Attorney
Otero County Administration Building
1101 New York Avenue

AMERICAN OVERSIGHT

Alamogordo, New Mexico 88310
575-437-7427 (telephone)
866-986-8376 (toll-free)
575-443-2928 (facsimile)
meshleman@co.otero.nm.us

From: meshleman@co.otero.nm.us <meshleman@co.otero.nm.us>
Sent: Tuesday, March 9, 2021 10:17 AM
To: 'records@americanoversight.org' <records@americanoversight.org>
Cc: Sylvia C. Tillbrook (stillbrook@co.otero.nm.us) <stillbrook@co.otero.nm.us>
Subject: RE: Public Records Request (NM-OTERO-21-0275) (OC File #21PRR040)

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Otero County Administration Building
1101 New York Avenue
Alamogordo, New Mexico 88310
575-437-7427 (telephone)
866-986-8376 (toll-free)
575-443-2928 (facsimile)
meshleman@co.otero.nm.us

From: meshleman@co.otero.nm.us <meshleman@co.otero.nm.us>
Sent: Tuesday, March 9, 2021 10:16 AM
To: 'records@americanoversight.org' <records@americanoversight.org>
Cc: Sylvia C. Tillbrook (stillbrook@co.otero.nm.us) <stillbrook@co.otero.nm.us>
Subject: RE: Public Records Request (NM-OTERO-21-0275) (OC File #21PRR040)

Please find attached a further response from Otero County to your IPRA request.

Ave atque vale!
Michael Eshleman

Michael Eshleman
Otero County Attorney
Otero County Administration Building
1101 New York Avenue
Alamogordo, New Mexico 88310
575-437-7427 (telephone)
866-986-8376 (toll-free)
575-443-2928 (facsimile)
meshleman@co.otero.nm.us

From: meshleman@co.otero.nm.us <meshleman@co.otero.nm.us>
Sent: Wednesday, March 3, 2021 12:13 PM
To: 'records@americanoversight.org' <records@americanoversight.org>
Cc: Sylvia C. Tillbrook (stillbrook@co.otero.nm.us) <stillbrook@co.otero.nm.us>
Subject: Public Records Request (NM-OTERO-21-0275) (OC File #21PRR040)

Please find attached a further response from Otero County to your IPRA request.

Ave atque vale!
Michael Eshleman

Michael Eshleman

AMERICAN OVERSIGHT

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Otero County Administration Building
1101 New York Avenue
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575-437-7427 (telephone)
866-986-8376 (toll-free)
575-443-2928 (facsimile)
meshleman@co.otero.nm.us

AMERICAN OVERSIGHT

From: dldewey@aol.com <dldewey@aol.com>
Sent: Saturday, January 09, 2021 2:22 PM EST
To: dldewey@aol.com <dldewey@aol.com>
Subject: 8 Senators, 139 House Reps who vote to throw out 188 million American votes for Donald Trump - Remember these people and vote them out of office.
Attachment(s): "HouseRepTraitors.2020 Election..pdf"

Below are pictures and names of the (8) Senators who voted to throw out 188 million American votes of the 2020 election for Donald Trump. Remember these people and vote them out office in 2022, 2024 and 2026. They are a disgrace to what American stands for.

Attached is a .pdf listing 139 House of Representatives also who also voted to throw out 188 million American votes of the 2020 election for Donald Trump. Remember these people also and vote them out of office in 2022 and 2024.

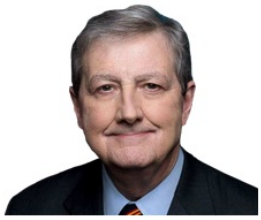
Please send these to everyone you know, these people need to be removed from office for their betrayal to all Americans, not to mention their constituents in their districts.

These (8) U.S. Senators voted to throw out a 188 million American votes of the 2020 election for Donald Trump. Remember these people and vote them out of office in 2022. They are a disgrace to what America stands for.


Tommy Tuberville, Ala.


Rick Scott, Fla.


Roger Marshall, Kan.


John Kennedy, La.


Cindy Hyde-Smith, Miss.


Josh Hawley, Mo.


Ted Cruz, Texas


Cynthia Lummis, Wyo.

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These 139 House Members voted to throw out 188 million American votes in the 2020 election for Donald Trump. Remember these people in 2022 and vote them out of office. They are a disgrace to what America stands for. They are listed by state. Send this to everyone you know.


Robert B. Aderholt, Ala.


Mo Brooks, Ala.


Jerry Carl, Ala.


Barry Moore, Ala.


Gary Palmer, Ala.


Mike Rogers, Ala.


Andy Biggs, Ariz.


Paul Gosar, Ariz.


Debbie Lesko, Ariz.

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David Schweikert, Ariz.



Rick Crawford, Ark.



Ken Calvert, Calif.



Mike Garcia, Calif.



Darrell Issa, Calif.



Doug LaMalfa, Calif.



Kevin McCarthy, Calif.



Devin Nunes, Calif.



Jay Obernolte, Calif.



Lauren Boebert, Colo.



Doug Lamborn, Colo.



Kat Cammack, Fla.

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Mario Diaz-Balart, Fla.



Byron Donalds, Fla.



Neal Dunn, Fla.



Scott Franklin, Fla.



Matt Gaetz, Fla.



Carlos Gimenez, Fla.



Brian Mast, Fla.



Bill Posey, Fla.



John Rutherford, Fla.



Greg Steube, Fla.



Daniel Webster, Fla.



Rick Allen, Ga.

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Earl L. "Buddy" Carter, Ga.


Andrew Clyde, Ga.


Marjorie Taylor Greene, Ga.


Jody Hice, Ga.


Barry Loudermilk, Ga.


Russ Fulcher, Idaho


Mike Bost, Ill


Mary Miller, Ill.


Jim Baird, Ind.


Jim Banks, Ind.


Greg Pence, Ind.


Jackie Walorski, Ind.

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Ron Estes, Kan.


Jacob LaTurner, Kan.


Tracey Mann, Kan.


Harold Rogers, Ky.


Garret Graves, La.


Clay Higgins, La.


Mike Johnson, La.


Steve Scalise, La.


Andy Harris, Md.

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Jack Bergman, Mich.


Lisa McClain, Mich.


Tim Walberg, Mich.


Michelle Fischbach, Minn.


Jim Hagedorn, Minn.


Michael Guest, Miss.


Trent Kelly, Miss.


Steven Palazzo, Miss.


Sam Graves, Mo.


Vicky Hartzler, Mo.


Billy Long, Mo.


Blaine Luetkemeyer, Mo.

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Jason Smith, Mo.



Matt Rosendale, Mont.



Dan Bishop, N.C.



Ted Budd, N.C.



Madison Cawthorn, N.C.



Virginia Foxx, N.C.



Richard Hudson, N.C.



Gregory F. Murphy, N.C.



David Rouzer, N.C.

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Jeff Van Drew, N.J.



Yvette Herrell, N.M.



Chris Jacobs, N.Y.



Nicole Malliotakis, N.Y.



Elise M. Stefanik, N.Y.



Lee Zeldin, N.Y.



Adrian Smith, Neb.



Steve Chabot, Ohio



Warren Davidson, Ohio



Bob Gibbs, Ohio



Bill Johnson, Ohio



Jim Jordan, Ohio

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Stephanie Bice, Okla.


Tom Cole, Okla.


Kevin Hern, Okla.


Frank Lucas, Okla.


Markwayne Mullin, Okla.


Cliff Bentz, Ore.


John Joyce, Pa.


Fred Keller, Pa.


Mike Kelly, Pa.

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Daniel Meuser, Pa.


Scott Perry, Pa.


Guy Reschenthaler, Pa.


Lloyd Smucker, Pa.


Glenn Thompson, Pa.


Jeff Duncan, S.C.

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Ralph Norman, S.C.


Tom Rice, S.C.


William Timmons, S.C.


Joe Wilson, S.C.


Tim Burchett, Tenn


Scott DesJarlais, Tenn.


Chuck Fleischmann, Tenn.


Mark E. Green, Tenn.


Diana Harshbarger, Tenn.


David Kustoff, Tenn.


John Rose, Tenn.


Jodey Arrington, Texas

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Brian Babin, Texas



Michael C. Burgess, Texas



John R. Carter, Texas



Michael Cloud, Texas



Pat Fallon, Texas



Louie Gohmert, Texas



Lance Gooden, Texas



Ronny Jackson, Texas



Troy Nehls, Texas



August Pfluger, Texas



Pete Sessions, Texas



Beth Van Duyne, Texas

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Randy Weber, Texas


Roger Williams, Texas


Ron Wright, Texas


Burgess Owens, Utah


Chris Stewart, Utah


Ben Cline, Va.


Bob Good, Va.


Morgan Griffith, Va.


Robert J. Wittman, Va.


Carol Miller, W.Va.


Alexander X. Mooney, W.Va.


Scott Fitzgerald, Wis.

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Tom Tiffany, Wis.

AMERICAN OVERSIGHT

From: U.S. Department of Education <ed.gov@public.govdelivery.com>
Sent: Friday, January 08, 2021 1:13 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Attention Educators and Families! Webinar: Learning in a Pandemic

Attention Educators and Families!

Learning Loss Webinar

Please join the U.S. Department of Education for a discussion on the state of student learning during the pandemic and tools that families and teachers can use to support student learning now. This event will educate parents and teachers on the state of learning today and how you can better support your students during the pandemic.

This forum will review the most updated research on the state of student learning today and share personalized platforms you can utilize to support student learning immediately. Institute for Education Sciences (IES) Director Mark Schneider will moderate a discussion with national leaders in the research field, Stanford's Center for Research on Education Outcomes (CREDO) and NWEA, as they review findings on national learning loss. Then, Assistant Secretary for Planning, Evaluation, and Policy Development (OPEPD) Jim Blew will moderate a discussion on the power of individualized learning platforms with two examples for how to approach personalized learning for your students, Gooru and New Classrooms.*

Event Details:

- Thursday, January 14, 2021 from 5:30 PM to 6:30 PM EST (please note start time and time zone).
- You must RSVP to join the forum. Please use the following link to register: https://www.eventbrite.com/e/learning-in-a-pandemic-resources-to-support-students-registration-134526681927
- Upon successful registration, you will receive an email containing a personalized access link.

We hope you can join us in support of your students.

Respectfully,
Office of Planning, Evaluation, and Policy Development
U.S. Department of Education

** The views expressed at this event do not necessarily represent the positions or policies of the U.S. Department of Education (Department). No official endorsement by the Department of any publication, product, commodity, service, or enterprise is intended or should be inferred. This event contains examples of potentially useful information for the participant's convenience. The Department does not control or guarantee the accuracy, relevance, timeliness, or completeness of this non-Department information. The inclusion of these examples is not intended to reflect their importance, nor is it intended to endorse views expressed, or products or services offered. Inclusion of such information does not constitute an endorsement by the Department or a preference for these examples as compared with others that might be presented. Additionally, this discussion should not imply an endorsement of any organization, curriculum, or learning model.*

###

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From: dldewey@aol.com <dldewey@aol.com>
Sent: Monday, January 04, 2021 7:17 AM EST
To: dldewey@aol.com <dldewey@aol.com>
Subject: Based on buried negative reactions to the vaccines in drug trials public is unaware of - something to think about !

Based on buried negative reactions to the vaccines in drug trials public is unaware of !
The drug trials were all rushed to quickly ! There are several unknowns only to be found out by people either dying or having serious health effects from the vaccines.

Keep in mind that these vaccines are NOT MADE like normal flu vaccines, they are dealing with the DNA AND RNA of the human immune system.

We really do not know how the human immune system is going to react to these new type of DNA/RNA vaccines for several months, and then it may be too late !

If you remember, the 1976 swine flu pandemic. They rushed out a type new flu vaccine that used a chemical that was later found out to cause many deadly long term health effects, including, Guillain-Barré syndrome, encephalitis, anaphylaxis, brain tumors and cancers. These side effects were white washed in teh clinical trials to speed the approval of the vaccine. It was later found that approxmimately 1,944 people out of every 100,000 people that received the vaccine experienced these deadly and serious health effects and that was low estimates from several major University research hospitals that discovered the health effects to the American Public !

We also know from this period, the younger and older you are that get the vaccines are the ones that experience long term deadly health effects from vaccines. We simply do not know long term how these new type of vaccines that use, change and manipulate the human immune system as these new DNA/RNA vaccines do.

The vaccines were ALL rushed too quickly !

18 U.S. Senators, (nearly all Republican) over 100 House Members, (nearly all Republican) have made millions playing the stock markets on these vaccines based on false anouncements when they would be made available by the White House and Trump himself.... and that includes Trump family members who have cashed in on this cash cow.
Talk about cleaning the swamp out in Washington, it pm;y got deeper over the cash cow vaccine machines.

Something to think about !



AMERICAN OVERSIGHT

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Talk about cleaning the swamp out in Washington, it pm;y got deeper over the cash cow vaccine machines.

Something to think about !



AMERICAN OVERSIGHT

From: Rod Van Dyke <rvandyke65@gmail.com>
Sent: Saturday, January 09, 2021 6:47 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Behavior

Your sedition like behavior is highly offensive and unpatriotic. Stop this idiotic and reckless exhibition. Donald Trump is done. Stick a fork in him. He is done! Our Republic is saved. You and your ilk should stop your threatening and traitor like behavior. What happened at our Nations Capitol was disgusting. It made me sick to my stomach. Get on board with us Dems. Put your guns away and Go With Joe! Ride' 'em cowboy?

AMERICAN OVERSIGHT

From: Amy from CivicPlus <dudgeon@civicplus.com>
Sent: Wednesday, January 06, 2021 11:04 AM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: CivicEngage Enhancements | Join the ENGAGEXCHANGE Community

View in browser

CivicEngage

CIVICPULSE:
JANUARY NEWSLETTER

q4 enhancement webinar pulse image2

FEATURED

CivicEngage® Enhancement Webinar

Join our solution experts on Thursday, January 14, at 1 p.m. CT, to learn about the latest enhancements to our CivicEngage content management system (CMS). We'll reveal our latest solution updates and available resources to optimize your CivicEngage solution.

REGISTER NOW

LATEST NEWS

Webinar: Your Pressing Digital Accessibility Questions Answered

What is WCAG 2.0? What does "accessibility" mean under the Americans With Disabilities Act (ADA)? What is the purpose of a screen reader? All of these accessibility questions and more will be addressed by Don Torrez, ADA Certified Accessibility Coordinator. Join Don on Tuesday, January 26, for this informational webinar.

REGISTER NOW

ENGAGEXCHANGE Program: Join Our Community

We are thrilled to share that we've launched a new community for CivicEngage called ENGAGEXCHANGE. Our goal with this community focuses on two key ideas: connection and direction. Both points focus on you, our clients, to create the best solution and the best experience for CivicEngage. Connect to our community to access this central hub of ideas, guidance, tips, and advice.

JOIN ENGAGEXCHANGE

AMERICAN OVERSIGHT

Coming Soon: CivicPlus Chatbot

Coming soon to a webpage near you, CivicPlus Chatbot is an optimized local government solution designed to save your staff time and money by answering routine questions and inquiries about your CivicEngage content management system.

LEARN MORE

TOP CLICKED ARTICLES RELATED TO DIGITAL TRANSFORMATION

How to Start a Volunteer Program in Your Community

How to Set Up a Community Emergency Response Team

Five Clerk Best Practices for Future-Proofing Your Records

How Government HR Can Create a Diversity and Inclusion Program Part III

Busting the Backlog. How to Deliver Mobile Solutions at Pace

CivicPlus, 302 South 4th Street, Suite 500, Manhattan, Kansas 66502, 888-228-2233
Unsubscribe Manage preferences

AMERICAN OVERSIGHT

From: Denise Robles <deniseluciarobles@gmail.com>
Sent: Thursday, January 07, 2021 9:39 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
CC: steve@gopnm.org <steve@gopnm.org>; yvette@yvetteherrell.com <yvette@yvetteherrell.com>; D'Val Westphal <dwestphal@abqjournal.com>; kmoses@abqjournal.com <kmoses@abqjournal.com>; Jessica Dyer <jdyer@abqjournal.com>; Dan Boyd <dboyd@abqjournal.com>; Dan McKay <dmckay@abqjournal.com>; news@dailylobo.com <news@dailylobo.com>; Elise Kaplan <ekaplan@abqjournal.com>; cheild@abqjournal.com <cheild@abqjournal.com>
Subject: Cowboys for Trump founder praises pro-Trump rioters | KOB 4

https://www.kob.com/new-mexico-news/cowboys-for-trump-founder-praises-pro-trump-rioters/5971373/

I would call you a fool but that is too kind. If you think Trump will pardon you for your asinine behavior WAKE UP! He only cares about himself.

DLR

AMERICAN OVERSIGHT

From: Billie Sue Patrick <billiesue14@gmail.com>
Sent: Saturday, January 09, 2021 5:15 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Cowboys for Trump

Your public denunciation of the election as a fraud and support for the insurectionists who forced their way into the Capitol with the intent of interfering with the lawful business of Congress make you an embarrassment to New Mexico and unfit for public office. If you want to repeat lies that undermine our electoral process and support efforts to violently subvert the peaceful transition of power, then resign as Commissioner and do so as a private citizen, not as a representative of our state. I support your right to freedom of speech even if your allegations are totally unsubstantiated. However, your words and actions aren't appropriate as a public servant since they reflect badly on all of us.

I have signed a petition for your removal from office, but I encourage you to resign instead. If you are the patriot you claim to be, you will do what's best for the citizens of this state instead of what strokes your ego.

Billie Sue Patrick
Albuquerque, NM

AMERICAN OVERSIGHT

From: Anonymousemail <noreply@anonymousemail.me>
Sent: Tuesday, January 12, 2021 11:53 AM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Dumb fuck

This email was sent via **anonymousemail**
To remove this signature and unlock all features go premium
→ New! Join our affiliate program and start **earning money**.

Hey Dumb Fuck,

You are a traitor to our democracy. You are also a domestic terrorist. Crybaby and wannabe dictator donald trump lost fair and squre. HAHAHA! See you around, pussy bigmouth.

ALL HAT, NO CATTLE!

From: Jonna Lou Schafer <boredwell@dellcity.com>
Sent: Monday, January 11, 2021 9:20 PM EST
To: Couy Griffin <cgriffin@co.otero.nm.us>; Gerald Matherly <gmatherly@co.otero.nm.us>; Vickie Marquardt <vmarquardt@co.otero.nm.us>
CC: Pamela Heltner <pheltner@co.otero.nm.us>; Brian Muise <b.k.muise@gmail.com>; Gary Scarbrough <gary@dellcity.com>; Henerietta Stockel <hstockel@tularosa.net>; Jeff Stephan <pc1chap.nm@gmail.com>; Jeff Stephen <casadeosos.jeff@gmail.com>; Judy Medeiros <judymedeiros@msn.com>; Schafer <boredwell@dellcity.com>; Sidney Gordon <sgordon@nmsu.edu>; Twyla Lewis <tflewis@pvtn.net>; Walt Coffman <walt@pvtnetworks.net>
Subject: Fw: Linebery weekly email (federal register)
Attachment(s): "2020-28879.pdf","2020-28881.pdf","2020-28914.pdf","2021-00310.pdf"

FYI

From: Nicholas Ashcroft
Sent: Monday, January 11, 2021 7:03 PM
To:
Subject: Linebery weekly email (federal register)

2020-28879 - Council on Environmental Quality. Notice of online portal for agency guidance documents.

2020-28881- Council on Environmental Quality. Final rule.

2020-28914- Agricultural Disaster Indemnity Programs: Farm Service Agency (FSA), Department of Agriculture (USDA). Final rule.

2021-00310- U.S. Nominations to the World Heritage List; 15-Day Notice of Opportunity for Public Comment: National Park Service, Interior.

Nick Ashcroft
Natural Resource Policy Analyst
Linebery Policy Center for Natural Resource Management

nashcrof@nmsu.edu
575-646-5508 (office)

Confidential/Proprietary Note:
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AMERICAN OVERSIGHT

7910–00–685–6660—Pad, Machine, Scrubbing, Floor, 17″ x ¼″
7910–00–685–6671—Pad, Machine, Polishing, Floor, 15″ x ¼″
7910–00–685–6672—Pad, Machine, Polishing, Floor, 17″ x ¼″
7910–00–685–6686—Pad, Machine, Polishing, Floor, 12″ x ¼″
7910–00–685–6687—Pad, Machine, Polishing, Floor, 13″ x ¼″
7910–00–820–7989—Pad, Floor, Buffing, Nylon, Tan, 15″
7910–00–NIB–0006—Pad, Floor, Burnishing, Animal Hair, Gray, 17″
7910–00–NIB–0009—Pad, Floor, Burnishing, Animal Hair, Gray, 21″
7910–00–NIB–0016—Pad, Floor, Polishing, Animal Hair, Beige, 17″
7910–00–NIB–0029—Pad, Floor, Buffing, Polyester, Red, 14″
7910–00–NIB–0030—Pad, Floor, Buffing, Polyester, Red, 15″
7910–00–NIB–0034—Pad, Floor, Scrubbing, Polyester, Blue, 14″
7910–00–NIB–0040—Pad, Floor, Scrubbing, Polyester, Blue, 21″
7910–01–512–5933—Pad, Floor, Stripping, Polyester, Brown, 17″
7910–01–512–5937—Pad, Floor, Scrubbing, Polyester, Blue, 13″
7910–01–512–5950—Pad, Floor, Scrubbing, Polyester, Blue, 17″

Designated Source of Supply: Beacon Lighthouse, Inc., Wichita Falls, TX
Contracting Activity: GSA/FSS Greater Southwest ACQUISITI, Fort Worth, TX

Michael R. Jurkowski,

Deputy Director, Business & PL Operations.

[FR Doc. 2021–00151 Filed 1–7–21; 8:45 am]

BILLING CODE 6353–01–P

COUNCIL ON ENVIRONMENTAL QUALITY

Guidance Document Online Portal

AGENCY: Council on Environmental Quality.

ACTION: Notice of online portal for agency guidance documents.

SUMMARY: In accordance with Executive Order (E.O.) 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' dated October 9, 2019, and Office of Management and Budget (OMB) Memorandum M–20–02, dated October 31, 2019, the Council on Environmental Quality (CEQ) is providing notice of where the public may access CEQ guidance documents.

ADDRESSES: The portal may be found at *https://www.whitehouse.gov/ceq/resources/*.

FOR FURTHER INFORMATION CONTACT: Amy B. Coyle, Deputy General Counsel, Council on Environmental Quality, 730 Jackson Place NW, Washington, DC 20503, 202–395–5750, *amy.b.coyle@ceq.eop.gov*.

SUPPLEMENTARY INFORMATION: E.O. 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' [1] requires that each agency establish or maintain on its website a single, searchable, indexed database that contains or links to all agency guidance documents [2] in effect. In accordance with E.O. 13891 and OMB's implementing guidance, set forth in OMB Memorandum M–20–02,[3] CEQ has complied with this requirement through its website portal, which is available to the public at *whitehouse.gov/ceq/resources*.[4] As required by E.O. 13891, the website also reiterates that: (1) The contents of the guidance documents accessed through the portal lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract; and (2) these documents are intended only to provide clarity to the public regarding existing requirements under statutes and regulations administered by CEQ. Under the E.O., CEQ may not cite, use, or rely on any guidance document that is not posted on or linked to the website portal, except to establish historical facts.

CEQ will also include on its website portal a link to its final rule establishing CEQ's internal agency procedures for issuing guidance documents, required by section 4 of E.O. 13891. The final rule relating to CEQ's guidance document procedures is published elsewhere in this issue of the **Federal Register**.

Authority: 42 U.S.C. 4321–4347; 42 U.S.C. 4371–4375; and E.O. 13891, 84 FR 55235.

Mary B. Neumayr,

Chairman.

[FR Doc. 2020–28879 Filed 1–7–21; 8:45 am]

BILLING CODE 3125–F1–P

[1] 84 FR 55235 (Oct. 15, 2019).

[2] E.O. 13891 defines ''guidance document'' as ''an agency statement of general applicability, intended to have future effect on the behavior of regulated parties, that sets forth a policy on a statutory, regulatory, or technical issue, or an interpretation of a statute or regulation. . . .'' *Id.*

[3] OMB issued its guidance memorandum on October 31, 2019. *See* M–20–02, Guidance Implementing Executive Order 13891, Titled ''Promoting the Rule of Law Through Improved Agency Guidance Documents'' (Oct. 31, 2019), *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*.

[4] CEQ's website portal at *https://www.whitehouse.gov/ceq/resources/* includes links to CEQ guidance documents and resources, some of which are provided on nepa.gov (*https://www.energy.gov/nepa/ceq-guidance-documents*) and sustainability.gov (*https://www.sustainability.gov/resources.html*).

DEPARTMENT OF EDUCATION

[Docket No. ED–2020–SCC–0167]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before February 8, 2021.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Find this information collection request by selecting ''Department of Education'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox. Comments may also be sent to *ICDocketmgr@ed.gov*.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, (202) 377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note

AMERICAN OVERSIGHT

PART 220—[REMOVED]

■ Accordingly, for the reasons stated in the preamble and under the authority of 5 U.S.C. 301, the Corps removes 33 CFR part 220.

R.D. James,

Assistant Secretary of the Army (Civil Works).

[FR Doc. 2020–27908 Filed 1–7–21; 8:45 am]

BILLING CODE 3720–58–P

COUNCIL ON ENVIRONMENTAL QUALITY

40 CFR Part 1519

RIN 0331–AA04

Guidance Document Procedures

AGENCY: Council on Environmental Quality.

ACTION: Final rule.

SUMMARY: Pursuant to Executive Order (E.O.) 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' this final rule establishes the process that the Council on Environmental Quality (CEQ) will follow for issuing guidance documents. E.O. 13891 requires Federal agencies to finalize regulations or amend existing regulations to establish processes and procedures for issuing guidance documents.

DATES: This rule is effective January 8, 2021.

FOR FURTHER INFORMATION CONTACT: Amy B. Coyle, Deputy General Counsel, Council on Environmental Quality, 730 Jackson Place NW, Washington, DC 20503, (202) 395–5750, *amy.b.coyle@ceq.eop.gov*.

SUPPLEMENTARY INFORMATION:

On October 9, 2019, President Trump issued E.O. 13891,[1] which addresses the development, use, and public availability of agency guidance documents. It requires agencies to promulgate or update existing regulations setting forth their procedures for issuing guidance documents. In accordance with section 6 of E.O. 13891, on October 31, 2019, the Office of Management and Budget (OMB) issued memorandum M–20–02, ''Guidance Implementing Executive Order 13891, Titled 'Promoting the Rule of Law Through Improved Agency Guidance Documents' '' (OMB M–20–02)[2] to provide guidance and implement the Executive order. OMB M–20–02 provides agencies with additional instruction on how to implement E.O. 13891, including the required rulemaking.

I. Summary of Final Rule

In this final rule, CEQ adds a new part 1519 to the Code of Federal Regulations to set out its procedures for the development and issuance of guidance documents consistent with the direction and reflecting the policies described in E.O. 13891 and OMB M–20–02.

A. Section 1519.1, ''Purpose''

Section 1519.1, ''Purpose,'' states that the purpose of part 1519 is to implement E.O. 13891, and explains CEQ's process for developing and issuing guidance.

B. Section 1519.2, ''Guidance Document Procedures''

Section 1519.2, ''Guidance document procedures,'' defines ''guidance documents'' in paragraph (a) and describes documents that do not meet that definition in paragraph (b), consistent with section 2(b)[3] of the E.O. and Q2 of OMB M–20–02.

Paragraph (c) of § 1519.2 lists the minimum requirements for any document meeting the definition of a guidance document consistent with Q22 of OMB M–20–02, including a title, unique identification number, date, indication of whether it revises or replaces prior guidance, summaries, and legal citations. Additionally, consistent with section 4(i) of E.O. 13891, paragraph (c)(6) includes a requirement that each guidance document clearly state that it does not bind the public, except as authorized by law or as incorporated into a contract.

Paragraph (c)(11) of § 1519.2 specifies that any guidance document must be posted on CEQ's website. E.O. 13891 also directed Federal agencies to make guidance documents publicly available in an indexed, searchable database online. As described in the **Federal Register** notice published today, CEQ has complied with this requirement through its website *whitehouse.gov/ceq/resources*.[4] As noted on this website, CEQ may not cite, use, or rely on any guidance that is not posted on its web pages except to establish historical facts. CEQ also makes clear that CEQ's guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract.

Finally, paragraph (d) of § 1519.2 requires the CEQ Office of the General Counsel to review and clear all guidance documents before CEQ issues them.

C. Section 1519.3, ''Procedures for the Public To Request Withdrawal or Modification of a Guidance Document''

Consistent with section 4(ii) of E.O. 13891, § 1519.3, ''Procedures for the public to request withdrawal or modification of a guidance document,'' addresses the process for members of the public to petition CEQ to withdraw or modify a particular guidance document, including designation of the Office of the General Counsel as the office within CEQ to which the public should direct such petitions. CEQ intends to provide additional instructions on its guidance website, including appropriate contact information and format of the petitions.

D. Section 1519.4, ''Significant Guidance Documents''

Finally, § 1519.4, ''Significant guidance documents,'' addresses specific requirements for a subset of ''guidance documents'' that are ''significant guidance documents'' as defined by section 2(c) of E.O. 13891. Paragraph (a) sets forth that definition. OMB's Office of Information and Regulatory Affairs (OIRA) makes the final determination of whether a guidance document is significant. If OIRA makes such a determination for a particular guidance document, this section will also apply. Consistent with section 4(iii) of E.O. 13891, paragraph (b) sets forth procedural requirements, including public notice and comment for at least 30 days, unless an exception applies; public response to major concerns raised in comments; approval on a non-delegable basis by the Chairman, or an official acting as Chairman; review by OIRA under Executive Order 12866; and compliance with the applicable requirements for regulations or rules.

II. Rulemaking Analyses and Notices

A. Regulatory Procedures

Under the Administrative Procedure Act, an agency may waive notice and comment procedures if an action is an interpretative rule, a general statement of policy, or a rule of agency organization, procedure, or practice. *See* 5 U.S.C. 553(b)(A). This rule describes the internal process that CEQ will follow to comply with the requirements specified in E.O. 13891 when issuing guidance documents as defined by the

[1] 84 FR 55235 (Oct. 15, 2019).

[2] OMB M–20–02 is available at *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*.

[3] E.O. 13891 section 2(b) lists the following as exclusions to the definition of guidance document. 84 FR at 55235–36.

[4] CEQ's website, *whitehouse.gov/ceq/resources*, includes links to CEQ guidance documents and resources, some of which are provided on *nepa.gov* and *sustainability.gov*.

AMERICAN OVERSIGHT

NM-OTERO-21-0275-A-000050

E.O. Because this rule is one of agency organization, procedure, or practice, it is exempt from the requirement to provide prior notice and opportunity for public comment.

B. Regulatory Planning and Review (E.O. 12866 and E.O. 13563)

E.O. 12866 provides that OIRA will review all significant rules. E.O. 13563 reaffirms the principles of E.O. 12866, calling for improvements in the Federal government's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory objectives. OMB determined that this final rule does not meet the requirements for a significant regulatory action under E.O. 12866, as supplemented by E.O. 13563, and therefore it was not subject to review.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, as amended (RFA), 5 U.S.C. 601 *et seq.,* and E.O. 13272 do not apply to this rulemaking because it is not subject to the notice and comment requirements of 5 U.S.C. 553(b).

D. Unfunded Mandates Reform Act

A statement containing the information required by the Unfunded Mandates Reform Act, 2 U.S.C. 1531 *et seq.,* is not required. This rule will not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year, and it will not have a significant or unique effect on State, local, or Tribal governments, or the private sector.

E. Reducing Regulation and Controlling Regulatory Costs (E.O. 13771)

This rule is not an E.O. 13771 regulatory action because this rule is not significant under E.O. 12866.

F. Federalism (E.O. 13132)

Under the criteria in section 1 of E.O. 13132, this rule will not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement because it will not substantially and directly affect the relationship between the Federal and State governments.

G. National Environmental Policy Act

The purpose of this rulemaking is to formalize the CEQ's administrative procedures for issuing guidance documents, as required by E.O. 13891. CEQ has determined that the final rule is a non-major Federal action under the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.,* and would not have any effect on the environment because it merely outlines internal CEQ administrative procedures and does not authorize any activity or commit resources to a project that may affect the environment.

H. Paperwork Reduction Act

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This rule will not impose recordkeeping or reporting requirements on State, local, or Tribal governments, individuals, businesses, or organizations.

List of Subjects in 40 CFR Part 1519

Administrative practice and procedure, Guidance.

Mary B. Neumayr,
Chairman.

■ For the reasons stated in the preamble, the Council on Environmental Quality adds 40 CFR part 1519 as follows:

PART 1519—GUIDANCE DOCUMENTS

Sec.
1519.1 Purpose.
1519.2 Guidance document procedures.
1519.3 Procedures for the public to request withdrawal or modification of a guidance document.
1519.4 Significant guidance documents.

Authority: 42 U.S.C. 4321–4347; 42 U.S.C. 4371–4375; and E.O. 13891, 84 FR 55235.

§ 1519.1 Purpose.

(a) This part implements Executive Order 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' and reflects the policies described in that order. The provisions in this part address the Council on Environmental Quality's procedures for the development and issuance of agency guidance documents. This part explains what constitutes guidance documents, and sets forth the minimum requirements for guidance documents, the procedures to request withdrawal or modification of guidance documents, and the additional requirements and procedures for significant guidance documents.

(b) This part is intended to improve the internal management of the Council on Environmental Quality. It is not intended to and does not create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its agencies or other entities, its officers or employees, or any other person.

(c) If Executive Order 13891 or any provision thereof is rescinded or superseded, this part remains in effect.

§ 1519.2 Guidance document procedures.

(a) *Definition of guidance documents.* For purposes of this part, guidance documents are agency statements of general applicability, intended to have future effect on the behavior of regulated parties, that set forth a policy on a statutory, regulatory, or technical issue, or an interpretation of a statute or regulation.

(b) *Documents excluded from the definition of guidance documents.* Guidance documents do not include:

(1) Agency statements of specific, rather than general, applicability.

(2) Agency statements that do not set forth a policy on a statutory, regulatory, or technical issue or an interpretation of a statute or regulation.

(3) Legislative rules promulgated under 5 U.S.C. 553 (or similar statutory provisions), or exempt from rulemaking requirements under 5 U.S.C. 553(a).

(4) Rules of agency organization, procedure, or practice that are not anticipated to have substantial future effect on the behavior of regulated parties or the public.

(5) Decisions of agency adjudication.

(6) Documents or agency statements that are directed solely to the Council on Environmental Quality or other agencies (or personnel of such agencies) that are not anticipated to have substantial future effect on the behavior of regulated parties or the public.

(7) Legal briefs and other court filings.

(8) Legal advice or opinions from the Council on Environmental Quality's Office of the General Counsel.

(9) Categories of guidance documents made exempt from Executive Order 13891 by the Administrator of the Office of Management and Budget's Office of Information and Regulatory Affairs through memoranda issued pursuant to section 4(b) of Executive Order 13891.

(c) *Elements of guidance documents.* In general, each guidance document must:

(1) Provide the title of the guidance document;

(2) Provide a unique document identification number;

(3) Identify the Council on Environmental Quality and any office, as appropriate, issuing the guidance document;

(4) Include the date of issuance;

(5) Include the term ''guidance'';

(6) Include a disclaimer clarifying that it does not have the force and effect of law; is not meant to bind the public in any way; and is intended only to provide clarity to the public regarding

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existing requirements under the law or agency policies. When a guidance document is binding because the law authorizes binding guidance or because a contract incorporates the guidance, the Council on Environmental Quality must modify the disclaimer to reflect accordingly;

(7) If it is a revision to or a replacement of a previously issued guidance document, identify the guidance document that it revises or replaces;

(8) Include a short summary of the subject matter covered in the guidance document at the top of the document;

(9) Identify the activities to which and the persons to whom the guidance document applies;

(10) Include the citation to the statutory provision or regulation to which the guidance document applies or which it interprets; and

(11) Be posted on the Council on Environmental Quality's website.

(d) *Review and clearance.* The Office of the General Counsel must review and clear all proposed guidance documents before issuance.

§ 1519.3 Procedures for the public to request withdrawal or modification of a guidance document.

(a) Any member of the public may petition the Council on Environmental Quality to withdraw or modify a guidance document.

(b) The petitioner must submit the request for the withdrawal or modification of a guidance document in writing to the Office of the General Counsel. The petition must contain a statement of the reasons for the petition and any supporting documents to support the petitioner's request.

(c) Upon receipt of a petition for withdrawal or modification of a guidance document, the Office of the General Counsel will consult with the relevant offices and coordinate the response to the petition.

(d) The Council on Environmental Quality should respond to a petition in writing, including electronically, within 90 days of receipt of a petition. The response should state whether the petition is granted, granted in part and denied in part, denied, or provisionally denied for lack of adequate information. If the petition is provisionally denied for lack of adequate information, the response should indicate what additional information is necessary to adjudicate the petition. The Office of the General Counsel should respond to the petition in writing no later than 90 days after receipt of the necessary additional information. The response should state whether the petition is granted, granted in part and denied in part, or denied.

(e) The Council on Environmental Quality may consider in a coordinated manner or provide a coordinated response to similar petitions for withdrawal or modification.

(f) The Council on Environmental Quality need not respond to petitions under this part for withdrawal or modification of documents that do not meet the definition of a guidance document.

§ 1519.4 Significant guidance documents.

(a) *Significant guidance documents definition.* For the purposes of this section, significant guidance documents are guidance documents that may be reasonably anticipated to:

(1) Lead to an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles of Executive Order 12866.

(b) *Actions the Council on Environmental Quality will take before issuing significant guidance documents.* When the Office of Management and Budget's Office of Information and Regulatory Affairs determines that a guidance document is a significant guidance document, the Council on Environmental Quality must:

(1) Submit the guidance document for review by the Office of Information and Regulatory Affairs under Executive Order 12866;

(2) Publish the draft significant guidance document in the **Federal Register** for a public notice and comment period of at least 30 days;

(i) This provision will not apply if the Council on Environmental Quality for good cause finds that notice and public comment is impracticable, unnecessary, or contrary to the public interest.

(ii) If such a finding is made, the Council on Environmental Quality must incorporate such a finding and a brief statement of its reasoning into the significant guidance document.

(3) Obtain approval on a non-delegable basis from the Chairman or an official who is serving in an acting capacity as the Chairman.

(4) Provide a public response to major concerns raised in comments on the draft significant guidance document.

(5) Announce the availability of the final significant guidance document.

(6) Comply with the applicable requirements for regulations or rules, including significant regulatory actions, set forth in Executive Orders 12866, ''Regulatory Planning and Review,'' 13563, ''Improving Regulation and Regulatory Review,'' 13609, ''Promoting International Regulatory Cooperation,'' 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' and 13777, ''Enforcing the Regulatory Reform Agenda.''

(c) *Exemption.* This section will not apply if the Chairman or an official who is serving in an acting capacity as the Chairman of the Council on Environmental Quality and the Administrator of the Office of Information and Regulatory Affairs agree that exigency, safety, health, or other compelling cause warrants an exemption from some or all requirements.

[FR Doc. 2020–28881 Filed 1–7–21; 8:45 am]

BILLING CODE 3225–F1–P

FEDERAL PERMITTING IMPROVEMENT STEERING COUNCIL

40 CFR Chapter IX

[Agency Docket Number 2020–001]

RIN 3121–AA01

Adding Mining as a Sector of Projects Eligible for Coverage Under Title 41 of the Fixing America's Surface Transportation Act

AGENCY: Federal Permitting Improvement Steering Council.

ACTION: Final rule.

SUMMARY: The Federal Permitting Improvement Steering Council (Permitting Council) has voted to add mining as a sector with infrastructure projects eligible for coverage under Title 41 of the Fixing America's Surface Transportation Act (FAST–41). A new part will be included in the Code of Federal Regulations that adds mining to the list of statutory FAST–41 sectors. The addition of mining as a FAST–41 sector will allow qualified mining infrastructure projects to become FAST–41 covered projects. FAST–41 coverage will help Federal agencies coordinate their environmental and project review efforts to improve the timeliness, efficiency, predictability, and transparency of the decision-making processes associated with covered

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Rules and Regulations

Federal Register
Vol. 86, No. 3
Wednesday, January 6, 2021

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 760

[Docket ID: FSA–2020–0011]

RIN 0560–AI55

Agricultural Disaster Indemnity Programs

AGENCY: Farm Service Agency (FSA), Department of Agriculture (USDA).

ACTION: Final rule.

SUMMARY: This rule establishes the Quality Loss Adjustment (QLA) Program to provide assistance to producers who suffered eligible crop quality losses due to hurricanes, excessive moisture, floods, drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. It also amends the provisions for the Wildfire and Hurricane Indemnity Program Plus (WHIP+) to be consistent with the Further Consolidated Appropriations Act, 2020, by adding excessive moisture and drought occurring in 2018 and 2019 as qualifying disaster events and clarifying eligibility of sugar beets. The changes to WHIP+ were self-enacting and were previously implemented by FSA.

DATES:

Effective date: January 6, 2021.

Comment due date: Comments are due by March 8, 2021.

ADDRESSES: We invite you to submit comments on this rule. You may submit comments by either of the following methods, although FSA prefers that you submit comments electronically through the Federal eRulemaking Portal:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and search for Docket ID FSA–2020–0011. Follow the instructions for submitting comments.
- *Mail:* Director, SND, FSA, U.S. Department of Agriculture, 1400 Independence Avenue SW, Stop 0522, Washington, DC 20250–0522. In your comment, specify the docket ID FSA–2020–0011.

Comments will be available for viewing online at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Kimberly Graham at (202) 720–6825 (voice); or by email at: *kimberly.graham@usda.gov*. Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice).

SUPPLEMENTARY INFORMATION:

Background

The Additional Supplemental Appropriations for Disaster Relief Act, 2019 (''Disaster Relief Act,'' Pub. L. 116–20) provided disaster assistance for necessary expenses related to losses of crops (including milk, on-farm stored commodities, crops prevented from planting in 2019, and harvested adulterated wine grapes), trees, bushes, and vines, as a consequence of hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. The Further Consolidated Appropriations Act, 2020 (Pub. L. 116–94), makes several changes to the provisions of the Disaster Relief Act, including:

- Specifying that assistance would be provided for crop quality losses;
- Adding excessive moisture as a qualifying disaster event;
- Adding drought as a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year; and
- Providing that sugar beet losses in 2018 and 2019 would be paid through cooperative processors (to be paid to producer members as determined by such processors).

This rule implements those provisions of the Further Consolidated Appropriations Act, 2020, by establishing the QLA Program to provide assistance for crop quality losses and amending the WHIP+ regulations to be consistent with the changes to qualifying disaster events and eligibility of sugar beet losses.

QLA Program

This rule establishes the QLA Program to provide disaster assistance for crop quality losses that were a consequence of hurricanes, excessive moisture, floods, qualifying drought, tornadoes, typhoons, volcanic activity, snowstorms, or wildfires occurring in calendar years 2018 and 2019. Eligible crops generally include crops for which FCIC crop insurance coverage or Noninsured Crop Disaster Assistance Program (NAP) coverage is available; however, value loss crops,[1] honey, and maple sap are not eligible. The QLA Program provides assistance for losses to crops that were sold or fed to livestock or are in storage; crops that were destroyed are not eligible. Assistance will be based on a producer's harvested affected production of an eligible crop that had a quality loss due to a qualifying disaster event and had at least a 5 percent quality loss due to all eligible disaster events.

Qualifying disaster events include hurricanes, floods, tornados, typhoons, volcanic activity, snowstorms, wildfires, excessive moisture, qualifying drought, and related conditions that occurred in the 2018 or 2019 calendar year. Assistance is available for eligible producers in counties that received a qualifying Presidential Emergency Disaster Declaration (declaration) or Secretarial Disaster Designation (designation) due to one or more of the qualifying disaster events or a related condition. As required by the Further Consolidated Appropriations Act, 2020, drought is only a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year (referred to as ''qualifying drought'' in this rule). Only producers in those counties that received a disaster declaration or designation qualify for the QLA Program based on the declaration or designation. Producers in counties that did not receive a qualifying declaration or designation may still apply; however, they must also provide supporting documentation to establish that the crop was directly affected by a qualifying disaster event and suffered the same

[1] Value loss crops include aquaculture, floriculture, mushrooms, ginseng root, ornamental nursery, sea grass and sea oats, Christmas trees, and turfgrass sod.

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minimum loss as required by a crop in a disaster declared or designated county. Lists of counties with Presidential Emergency Disaster Declarations and Secretarial Disaster Designations for all qualifying disaster events for 2018 and 2019 are available at *farmers.gov/quality-loss.*

FSA recognizes that a crop may suffer quality losses due to multiple disaster events in a single crop year, and the portion of a crop's quality loss that can be attributed to a specific disaster event may be difficult to determine. Therefore, while a qualifying disaster event must have caused at least a portion of the affected production's quality loss, FSA will consider the total quality loss caused by all eligible disaster events for eligibility and payment calculation purposes. Eligible disaster events for the QLA Program include those listed for NAP in 7 CFR 1437.10, except that the QLA Program does not cover losses due to insect infestation.

The QLA Program does not cover losses due to disaster events occurring after a crop was harvested or due to crop deterioration while in storage. Quality losses that could have been mitigated using good farming practices are not eligible. For example, if a producer's corn crop received a quality discount due to high moisture content, the producer could have mitigated that quality loss by using best practices for drying and storing the crop; therefore, that producer's quality loss due to high moisture is not eligible. The QLA Program does not provide assistance for losses that cannot be determined to have occurred or for losses for which a notice of loss was previously disapproved by FSA, RMA, or an approved insurance provider selling and servicing Federal crop insurance policies unless that notice of loss was disapproved solely because it was filed after the applicable deadline.

The QLA Program does not provide assistance for certain quality losses that were already compensated under a Federal crop insurance plan, NAP, or WHIP+. This includes losses to affected production of:

- Multiple market crops already compensated under crop insurance or WHIP+;
- Crops for which production used to calculate a crop insurance indemnity or WHIP+ payment was adjusted based on a comparison of the producer's sale price to the FCIC established price;
- Crops that received a crop insurance indemnity, NAP payment, or WHIP+ payment based on the quantity of production that was considered unmarketable; and
- Crops for which production was reported as salvage value or secondary use.

The QLA Program also excludes quality losses to sugar beets that were compensated through cooperative agreements with cooperative processors.

Affected production of a subsequent crop grown on double cropped acreage is only eligible if the crop has been approved as an eligible double cropping practice by the FSA State committee.

Application

FSA will accept QLA Program applications from January 6, 2021, through March 5, 2021. To apply, producers must submit a completed QLA Program application either in person, by mail, email, or facsimile to an FSA county office. To be eligible, a producer must submit a complete application, which includes all of the following:

- FSA–898, Quality Loss Adjustment (QLA) Program Application;
- FSA–899, Historical Nutritional Value Weighted Average Worksheet (only for forage crops with verifiable documentation of historical nutrient factors from the 3 preceding crop years);
- FSA–578, Report of Acreage;
- FSA–895, Crop Insurance and/or NAP Coverage Agreement; and
- Required documentation, as discussed below.

The FSA–578, FSA–895, and FSA–899 forms, and other required documentation must be submitted to the producer's county office by March 19, 2021.

If not already on file with FSA, producers must also submit the following eligibility forms for each crop year within 60 days of the date the producer signs the application:

- AD–1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification;
- CCC–902, Farm Operating Plan for Payment Eligibility;
- CCC–941 Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information; and
- CCC–942 Certification of Income from Farming, Ranching and Forestry Operations, if applicable.

Payments will not be made until all necessary eligibility documentation is received. Failure of an applicant to submit documentation timely may result in FSA not issuing a payment or, in the case of legal entities, a reduced payment if the required documentation for one or more members of the entity is not submitted timely.

Required Documentation

To support their applications, producers must submit documentation showing the quality loss and quantity of affected production by March 19, 2021. Documentation of the quality loss (total dollar value loss, grading factors, and nutrient factors, as applicable), must be verifiable. Verifiable documentation is documentation that can be verified by FSA through an independent source; FSA may verify the submitted records with records on file at the warehouse, gin, laboratory, or other entity that received or tested the reported production. Examples of acceptable, verifiable documentation include warehouse grading sheets, settlement sheets, sales receipts, and laboratory test results. Except for grain crops that have been sold, the documentation must be from laboratory tests or analysis completed within 30 days of harvest to be considered acceptable, unless the FSA county committee determines that the record is representative of the condition of the affected production within 30 days of harvest. For grain crops that were sold, the verifiable documentation can be from any time from harvest through the time of sale, unless the FSA county committee determines the record is not representative of the condition within 30 days of harvest. Producers who do not have acceptable, verifiable documentation are ineligible for the QLA Program.

For forage crops, all producers must submit verifiable documentation showing the nutrient factors for the affected production of the crop. Producers must also submit verifiable documentation of the historical nutrient factors for the 3 preceding crop years if available. The type of nutrient factors (such as relative feed value or total digestible nutrients) that must be documented for a particular crop will be determined by the FSA county committee based on the standard practice for the crop in that county. For all crops other than forage crops, producers must submit verifiable documentation of the total dollar value loss due to quality, if available, and verifiable documentation of grading factors due to quality.

Documentation to support the quantity of affected production included on the application must be verifiable for non-forage crops that receive a QLA payment based on the producer's total dollar value loss. For all other crops (non-forage crops without a producer's total dollar value loss and all forage crops), records to support the quantity of affected production must be reliable. Reliable production records means evidence provided by the participant that is used to substantiate the amount of production reported when verifiable

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records are not available, including copies of receipts, ledgers of income, income statements of deposit slips, register tapes, invoices for custom harvesting, and records to verify production costs, contemporaneous measurements, truck scale tickets, and contemporaneous diaries that are determined acceptable by the FSA county committee. To determine whether the records are acceptable, the FSA county committee will consider whether they are consistent with the records of other producers of the crop in that area.

Payment Calculation

QLA Program payments will be calculated using different formulas based on the type of crop (forage or non-forage) and based on the type of documentation submitted. All QLA payments, regardless of whether they are forage or non-forage, and the type of documentation submitted, will be calculated using a 70 percent payment factor. Payments calculated based on a county average loss, as described below, will be subject to an additional payment factor of 50 percent.

For forage crops with verifiable documentation of both the nutrient factors for the affected production and historical nutrient factors for the 3 preceding crop years, payment will be equal to the amount of the producer's total affected production multiplied by the producer's verifiable percentage of loss, multiplied by the average market price determined by FSA, multiplied by 70 percent. The producer's verifiable percentage of loss is determined by comparing the nutrient factor test results for the affected production to the average from the 3 preceding crop years, as documented on the FSA–899, Historical Nutritional Value Weighted Average Worksheet. The average market price for the QLA Program is the price used for NAP established according to 7 CFR 1437.12.

For forage crops with verifiable documentation of nutrient factors for the affected production but without historical nutrient factors for the 3 preceding crop years, the payment will be equal to the amount of the producer's total affected production multiplied by the county average percentage of loss, multiplied by the average market price determined by FSA, multiplied by 70 percent, multiplied by 50 percent.

For affected production of non-forage crops with verifiable documentation of the total dollar value loss due to quality, the QLA Program payment is equal to the producer's total dollar value loss on the affected production of the crop, multiplied by a payment factor of 70 percent.

For non-forage crops without verifiable documentation of a total dollar value loss but with verifiable documentation of grading factors due to quality, the payment will be equal to the amount of producer's affected production multiplied by the county average loss per unit of measure, multiplied by 70 percent, multiplied by 50 percent.

To determine the county average percentage of loss (for forage crops) or the county average loss per unit of measure (for non-forage crops), FSA will calculate the average loss for a crop based on losses of producers applying with verifiable documentation of historical nutritional factors (for forage crops) or the total dollar value loss (for non-forage crops) if at least 5 eligible producers submitted that documentation in the county. If less than 5 eligible producers in a county submit verifiable documentation of their historical nutritional factors or their total dollar value loss, FSA will determine a county average percentage of loss or county average loss per unit of measure based on the best available data, including losses of other QLA Program participants in contiguous counties. If sufficient data is still not available after considering other sources, FSA may determine that a county average cannot be calculated and producers in that county applying for payment under the applicable calculation are ineligible.

Payments for the QLA Program will not be issued until the application period has ended in order to allow FSA to determine the county average losses, as well as the total payments requested under the QLA Program. The Further Consolidated Appropriations Act, 2020 provides funding for the QLA Program to be available until December 31, 2021, in an amount equal to the remaining funds provided under the Bipartisan Budget Act of 2018 (Pub. L. 115–123) for losses due to Hurricanes Harvey, Irma, Maria, and other hurricanes and wildfires occurring in calendar year 2017,[2] and remaining funds provided under the Disaster Relief Act for losses due to Hurricanes Michael and Florence, other hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.[3] If the total amount of calculated QLA Program payments exceeds the amount of funding available, FSA will prorate all payments by a national factor.

A person or legal entity, other than a joint venture or general partnership, is eligible to receive, directly or indirectly, up to $125,000 per crop year in QLA Program payments. FSA will use the notification of interest provisions in 7 CFR 1400.107 and payment attribution provisions in 7 CFR 1400.105 for attributing and limiting payments to persons and legal entities. FSA will also use provisions in 7 CFR 1400.104 when changes in a farming operation result in an increase in persons to which payment limitation applies. Payments made to a joint operation (including a general partnership or joint venture) cannot exceed $250,000 per person or legal entity that comprise the ownership of the joint operation. Payments made to a legal entity will be reduced proportionately by an amount that represents the direct or indirect ownership in the legal entity by any person or legal entity that has otherwise reached the maximum payment limitation. These rules for attributing and limiting payments are consistent with the programs FSA administers on behalf of the Commodity Credit Corporation.

A person or legal entity, other than a joint venture or general partnership, is ineligible for a 2018, 2019, or 2020 payment if the person's or legal entity's average adjusted gross income (AGI) is more than $900,000, unless at least 75 percent of that person's or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. The average AGI for each of the program years 2018, 2019, or 2020, is determined using the average of the adjusted gross incomes for the 3 taxable years preceding the most immediately preceding taxable year. For example, for the 2019 program year, the producer's AGI would be based on the 2015, 2016, and 2017 tax years. If at least 75 percent of the person's or legal entity's AGI is derived from farming, ranching, or forestry-related activities and the participant provides the required certification and documentation, the person or legal entity is eligible to

[2] FSA provided assistance for losses due to Hurricanes Harvey, Irma, Maria, and other hurricanes and wildfires occurring in calendar year 2017 through the 2017 Wildfires and Hurricanes Indemnity Program (2017 WHIP) (final rule published July 18, 2018, 83 FR 33795–33809) and the Florida Citrus Recovery Grant Program.

[3] FSA has previously provided assistance for losses due to Hurricanes Michael and Florence, other hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019 through the Wildfires and Hurricanes Indemnity Program Plus (WHIP+), On-Farm Storage Loss Program, and Milk Loss Program (final rule published September 13, 2019, 84 FR 48518–48537), as well as through several grants and cooperative agreements with sugar beet cooperatives.

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receive QLA Program payments up to the applicable payment limitation noted above. With respect to joint ventures and general partnerships, this AGI provision will be applied to each member of the joint venture and general partnership.

Requirement to Purchase Crop Insurance or NAP Coverage

The Disaster Relief Act requires all participants who receive QLA Program payments to purchase crop insurance or NAP coverage for the next 2 available crop years. The latest year for meeting compliance with this provision will be the 2023 crop year. In other words, if the 2 consecutive years of coverage are not met by 2023 coverage year, the participant is ineligible for and must refund QLP Program payments. Participants must obtain crop insurance or NAP, as may be applicable, at the 60 percent coverage level or higher. In situations where crop insurance is unavailable for a crop, the Disaster Relief Act requires that a QLA Program participant obtain NAP coverage. Section 1001D of the Food Security Act of 1985 (1985 Farm Bill) provides that a person or entity with AGI in amount greater than $900,000 is not eligible to participate in NAP; however, producers with an AGI greater than $900,000 may be eligible for the QLA Program if at least 75 percent of that person's or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. Accordingly, in order to reconcile this restriction in the 1985 Farm Bill and the Disaster Relief Act's requirement to obtain NAP or crop insurance coverage, QLA Program participants may meet the Disaster Relief Act's purchase requirement by purchasing Whole-Farm Revenue Protection crop insurance coverage, if eligible, or they may pay the applicable NAP service fee and premium for the 60 percent coverage level despite their ineligibility for a NAP payment. In other words, the service fee and premium must be paid even though no NAP payment may be made because the AGI of the person or entity exceeds the 1985 Farm Bill limitation.

The crop insurance and NAP coverage requirements are specific to the crop and county (county where the crop is physically located for insurance and administrative county for NAP) for which QLA Program payments are paid. This means that a producer is required to purchase crop insurance or NAP coverage for the crop in the county for which the producer was issued a QLA Program payment. Producers who receive a payment on a crop in a county and who have the crop or crop acreage in subsequent years, as provided in this rule, and who fail to obtain the 2 years of crop insurance or NAP coverage must refund all QLA Program payments for that crop in that county with interest from the date of disbursement. This is a condition of payment eligibility specified by Disaster Relief Act and is therefore not subject to partial payment eligibility or other types of equitable relief. Producers who were paid under the QLA Program for a crop in a county but do not plant that crop in a subsequent year are not subject to the crop insurance or NAP purchase requirement. WHIP+ participants who already met the requirement to purchase crop insurance or NAP coverage as specified in 7 CFR 760.1517 are considered to have also met the requirement to purchase crop insurance or NAP coverage for QLA Program purposes, and they are not required to obtain additional years of crop insurance or NAP coverage as a result of also receiving a QLA Program payment for that crop.

Applicable general eligibility requirements, including recordkeeping requirements and required compliance with HELC and Wetland Conservation provisions, are similar to those for the previous ad hoc crop disaster programs and current permanent disaster programs. All information provided to FSA for program eligibility and payment calculation purposes, including production records, is subject to spot check.

WHIP+

FSA, on behalf of the Secretary of Agriculture, previously implemented provisions of the Disaster Relief Act by establishing WHIP+ through a final rule published on September 19, 2019 (84 FR 48518–48537). The Disaster Relief Act provided assistance for losses of crops, trees, bushes, and vines, as a consequence of hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. WHIP+ covers only production losses of crops except in specific circumstances discussed previously in this document when the producer may have also been compensated for quality losses.

This rule amends 7 CFR 760.1500(c) and the definition of ''qualifying disaster event'' in § 760.1502 to include excessive moisture and qualifying drought. As under the QLA Program, drought is only considered a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year. This rule adds definitions of ''qualifying drought'' and ''U.S. Drought Monitor'' in § 760.1502.

The addition of these qualifying disaster events for WHIP+ was self-enacting as the text in the law clearly specified the required changes without need for interpretation; therefore, FSA began the sign-up period for losses due to excessive moisture and qualifying drought on March 23, 2020, and sign-up ended on October 30, 2020. Producers applying for WHIP+ assistance for losses due to excessive moisture or qualifying drought were required to meet all requirements in 7 CFR part 760, subpart O, including the requirement to purchase crop insurance for 2 years as specified in § 760.1517.

The Further Consolidated Appropriations Act, 2020 also directed the Secretary to pay sugar beet losses in 2018 and 2019 through cooperative processors. FSA has established cooperative agreements with sugar beet processors; those processors will be responsible for distributing assistance to their members. This rule amends the eligibility provisions in § 760.1517 to specify that members of cooperatives are not eligible for a WHIP+ payment for sugar beet losses.

FSA is also updating § 760.1510(a) to reflect the application deadline of October 30, 2020, and correcting references in §§ 760.1508(c) and (f) and 760.1511(a)(6).

Notice and Comment and Effective Date

The Administrative Procedure Act (5 U.S.C. 553) provides that the notice and comment and 30-day delay in the effective date provisions do not apply when the rule involves a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts. This rule involves programs for payments to certain agricultural commodity producers and therefore falls within that exemption. Due to the nature of the rule and the need to implement the regulations expeditiously to provide assistance to agricultural producers, FSA finds that notice and public procedure are contrary to the public interest. Therefore, even though this rule is a major rule for purposes of the Congressional Review Act, FSA is not required to delay the effective date for 60 days from the date of publication to allow for Congressional review. Therefore, this rule is effective upon publication in the **Federal Register**.

Executive Orders 12866, 13563, 13771 and 13777

Executive Order 12866, ''Regulatory Planning and Review,'' and Executive

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Order 13563, ''Improving Regulation and Regulatory Review,'' direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13777, ''Enforcing the Regulatory Reform Agenda,'' established a Federal policy to alleviate unnecessary regulatory burdens on the American people.

The Office of Management and Budget (OMB) designated this rule as economically significant under Executive Order 12866, and therefore, OMB has reviewed this rule. The costs and benefits of this rule are summarized below. The full cost benefit analysis is available on *regulations.gov.*

Executive Order 13771, titled Reducing Regulation and Controlling Regulatory Costs, was issued on January 30, 2017. The OMB guidance in M–17–21, dated April 5, 2017, specifies that ''transfers'' are not covered by Executive Order 13771 but that requirements imposed apart from transfers in transfer rules may qualify as costs or cost savings under Executive Order 13771, for example the information collection requirements in this rule. This rule is not subject to the requirements of E.O. 13771 because this rule results in no more than de minimis costs.

Cost Benefit Analysis Summary

WHIP+ initially provided approximately $3 billion in supplemental assistance to producers for qualifying agricultural production losses. In the Further Consolidated Appropriations Act, 2020, Congress changed provisions of the Disaster Relief Act as follows:

1. Extended eligibility under WHIP+ to also cover [4]—

a. Crop production losses due to excessive moisture in calendar years 2018 and 2019;

b. Crop production losses due to drought in calendar years 2018 and 2019 if the area within the county in which the loss occurred was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year;

2. Provided assistance for sugar beet losses in 2018 and 2019 to be paid through cooperative processors; [5] and

3. Authorized assistance for crop quality losses that occurred in calendar years 2018 and 2019 through the QLA Program (implemented by this rule).

Eligible crops under the QLA Program include crops for which Federal crop insurance or NAP coverage is available. To be eligible for the QLA Program, a crop must have suffered a quality loss due to a qualifying disaster event and had at least a 5 percent quality discount due to a combination of the qualifying disaster event and any other QLA-eligible causes of loss. Eligible crops may have been sold, fed on farm to livestock, or been in storage at the time of application.

USDA estimates the Further Consolidated Appropriations Act, 2020 will provide approximately $950 million for the continuation of disaster assistance program delivery, including payments to eligible producers for production losses due to excessive moisture and extreme drought under WHIP+ and for quality losses covered by the QLA Program. Of that amount, USDA anticipates that an estimated $500 million will be available for QLA Program payments. However, the amount of funding ultimately available for the QLA Program will not be known until other payments, for example for excessive moisture and drought under WHIP+, are finalized.

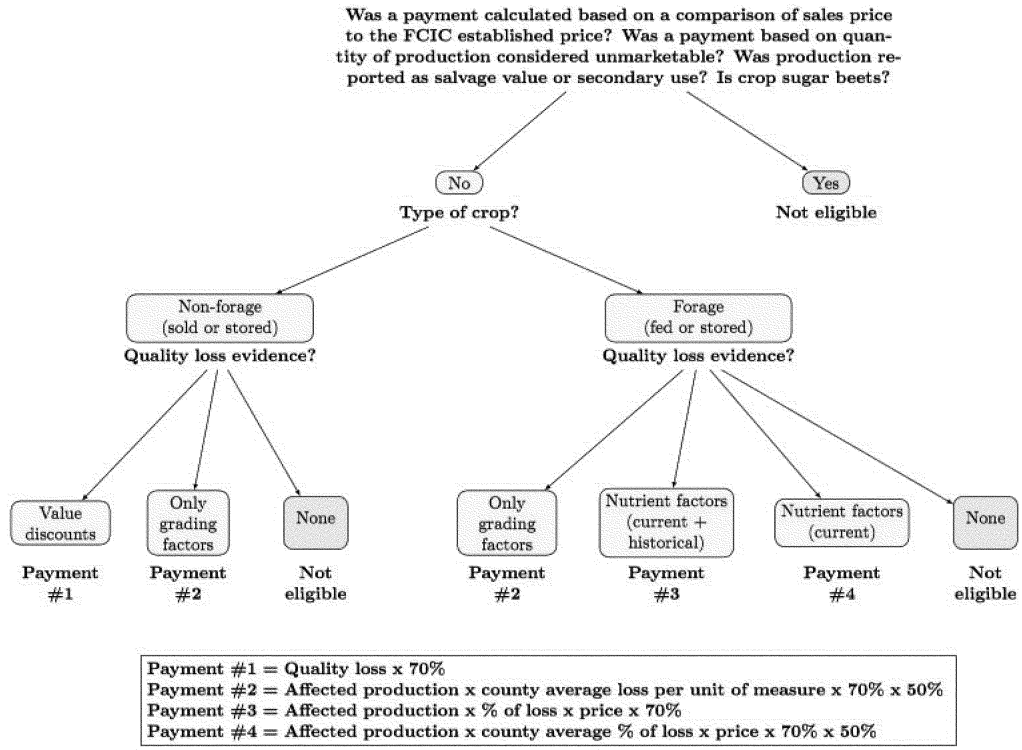
The QLA Program payment calculation depends on several factors, as shown in Figure 1. A producer is ineligible for a QLA Program payment if they received a crop insurance indemnity, NAP payment, or WHIP+ payment for a crop that was unmarketable, sold for salvage value or secondary use, or if the payment was based on a comparison of the sales price of the affected production and the applicable reference price. Otherwise, payments or benefits received under the Federal crop insurance, NAP or WHIP+ do not affect a producer's eligibility or payment received from the QLA Program. The payment calculation depends on the use of production (non-forage or forage) and evidence at hand of the crop quality loss. Producers who do not have evidence of the quality loss are ineligible.

[4] The addition of excessive moisture and certain drought conditions as qualifying causes of loss under WHIP+ is specific, not open to interpretation, and is therefore self-enacting. Accordingly, the provision was previously implemented. FSA began the sign-up period on March 23, 2020, and sign-up ended on October 30, 2020.

[5] Assistance for sugar beet losses for members of cooperative processors is provided through a separate program.

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Figure 1. Eligibility and Payment Calculation



Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA, Pub. L. 104–121), generally requires an agency to prepare a regulatory flexibility analysis of any rule whenever an agency is required by the Administrative Procedure Act or any other law to publish a proposed rule, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule is not subject to the Regulatory Flexibility Act because USDA is not required by Administrative Procedure Act or any law to publish a proposed rule for this rulemaking.

Environmental Review

The environmental impacts of this final rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and the FSA regulation for compliance with NEPA (7 CFR part 799). The legislative intent for implementing the QLA Program is to provide assistance to producers who suffered eligible crop quality losses due to hurricanes, excessive moisture, floods, drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.

While OMB has designated this rule as ''economically significant'' under Executive Order 12866, ''economic or social effects are not intended by themselves to require preparation of an environmental impact statement'' (see 40 CFR 1502.16(b)), when not interrelated to natural or physical environmental effects.

For this rule, the FSA Categorical Exclusions found in 7 CFR 799.31 apply, specifically 7 CFR 799.31(b)(6)(iii), (iv), and (vi) (that is, § 799.31(b)(6)(iii) Financial assistance to supplement income, manage the supply of agricultural commodities, or influence the cost or supply of such commodities or programs of a similar nature or intent (that is, price support programs); § 799.31(b)(6)(iv) Individual farm participation in FSA programs where no ground disturbance or change in land use occurs as a result of the proposed action or participation; and § 799.31(b)(6)(vi) Safety net programs administered by FSA). No Extraordinary Circumstances (7 CFR 799.33) exist.

For the outlined reasons, FSA has determined that the implementation of the QLA Program and the participation in the QLA Program does not constitute a major Federal action that would significantly affect the quality of the human environment, individually or cumulatively. Therefore, FSA will not prepare an environmental assessment or environmental impact statement for this regulatory action.

Executive Order 12372

Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' requires consultation with State and local officials that would be directly affect by proposed Federal financial assistance. The objectives of the Executive order are to foster an intergovernmental partnership and a strengthened federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance and direct Federal development. For reasons specified in the final rule related notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs and activities

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within this rule are excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, ''Civil Justice Reform.'' This rule will not preempt State or local laws, regulations, or policies unless they represent an irreconcilable conflict with this rule. The rule will not have retroactive effect. Before any judicial action may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR parts 11 and 780 must be exhausted.

Executive Order 13132

This rule has been reviewed under Executive Order 13132, ''Federalism.'' The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, except as required by law. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

The USDA's Office of Tribal Relations (OTR) has assessed the impact of this rule on Indian Tribes and determined that this rule may have significant Tribal implications that require ongoing adherence to Executive Order 13175. OTR notes that the programs are similar to programs that have been administered by FSA and RMA in the past; having not heard any concerns regarding the administration of these in the past, and the fact that provisions are mandated in the Disaster Relief Act, OTR recommended that consultation is not required at this time. Tribes can request consultation at any time. FSA will work with OTR to ensure meaningful consultation is provided where changes, additions, and modifications identified in this rule are not expressly mandated by law.

The Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104–4) requires Federal agencies to assess the effects of their regulatory actions on State local, and Tribal governments or the private sector. Agencies generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures of $100 million or more in any 1 year for State, local, or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates, as defined in Title II of UMRA, for State, local, and Tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, FSA submitted the QLA Program information collection request to OMB for emergency approval. OMB approved the 6-month emergency information collection.

E-Government Act Compliance

FSA is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Federal Assistance Programs

The titles and numbers of the Federal Domestic Assistance Program found in the Catalog of Federal Domestic Assistance to which this rule applies are:

10.129—Wildfire and Hurricanes Indemnity Program Plus
10.133—Quality Loss Adjustment Program

List of Subjects in 7 CFR Part 760

Dairy products, Indemnity payments, Reporting and recordkeeping requirements.

For the reasons discussed above, FSA amends 7 CFR part 760 as follows:

PART 760—INDEMNITY PAYMENT PROGRAMS

■ 1. Revise the authority citation for part 760 to read as follows:

Authority: 7 U.S.C. 4501 and 1531; 16 U.S.C. 3801, note; 19 U.S.C. 2497; Title III, Pub. L. 109–234, 120 Stat. 474; Title IX, Pub. L. 110–28, 121 Stat. 211; Sec. 748, Pub. L. 111–80, 123 Stat. 2131; Title I, Pub. L. 115–123, 132 Stat. 65; Title I, Pub. L. 116–20, 133 Stat. 871; and Division B, Title VII, Pub. L. 116–94, 133 Stat. 2658.

Subpart O—Agricultural Disaster Indemnity Programs

§ 760.1500 [Amended]

■ 2. In § 760.1500(c), remove the words ''and wildfires'' and add ''wildfires, excessive moisture, and qualifying drought'' in their place.

■ 3. Amend § 760.1502 as follows:

■ a. In the definition of ''Qualifying disaster event'', in paragraph (2) of remove the word ''wildfire'' and add ''wildfire, excessive moisture, qualifying drought'' in its place; and

■ b. Add the definitions of ''Qualifying drought'' and ''U.S. Drought Monitor'' in alphabetical order.

The additions read as follows:

§ 760.1502 Definitions.

* * * * *

Qualifying drought means an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year.

* * * * *

U.S. Drought Monitor is a system for classifying drought severity according to a range of abnormally dry to exceptional drought. It is a collaborative effort between Federal and academic partners, produced on a weekly basis, to synthesize multiple indices, outlooks, and drought impacts on a map and in narrative form. This synthesis of indices is reported by the National Drought Mitigation Center at *http://droughtmonitor.unl.edu.*

* * * * *

■ 4. In § 760.1503, add paragraph (j) to read as follows.

§ 760.1503 Eligibility.

* * * * *

(j) Members of cooperative processors are not eligible for WHIP+ assistance for sugar beet losses.

§ 760.1508 [Amended]

■ 5. Amend § 760.1508 as follows:

■ a. In paragraph (c), remove the cross reference ''paragraph (b)(1)'' and add the cross reference ''paragraph (b)'' in its place; and

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■ b. In paragraph (f), remove the cross reference ''paragraph (b)(1)'' and add cross reference ''paragraph (e)'' in its place.

§ 760.1510 [Amended]

■ 6. In § 760.1510(a), remove the words ''a date that will be announced by the Deputy Administrator'' and add ''October 30, 2020'' in their place.

§ 760.1511 [Amended]

■ 7. In § 760.1511(a)(6), remove the cross reference ''paragraph (f)'' and add cross reference ''paragraph (g)'' in its place.

■ 8. Add subpart R, consisting of §§ 760.1800 through 760.1814, to read as follows:

Subpart R—Quality Loss Adjustment Program

Sec.

760.1800 Applicability.
760.1801 Administration.
760.1802 Definitions.
760.1803 Participant eligibility.
760.1804 Eligibility of affected production.
760.1805 Qualifying disaster events.
760.1806 Ineligible losses.
760.1807 Miscellaneous provisions.
760.1808 General provisions.
760.1809 Payment and adjusted gross income limitation.
760.1810 Time and method of application.
760.1811 Required documentation and verification.
760.1812 Payment calculation.
760.1813 Availability of funds and timing of payments.
760.1814 Requirement to purchase crop insurance or NAP coverage.

§ 760.1800 Applicability.

This subpart specifies the terms and conditions for the Quality Loss Adjustment (QLA) Program. The QLA Program provides disaster assistance for crop quality losses that were a consequence of hurricanes, excessive moisture, floods, qualifying drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.

§ 760.1801 Administration.

(a) The QLA Program is administered under the general supervision of the Administrator, Farm Service Agency (FSA), and the Deputy Administrator for Farm Programs, FSA. The QLA Program is carried out by FSA State and county committees with instructions issued by the Deputy Administrator.

(b) FSA State and county committees, and representatives and their employees, do not have authority to modify or waive any of the provisions of the regulations in this subpart or instructions issued by the Deputy Administrator.

(c) The FSA State committee will take any action required by the regulations in this subpart that the FSA county committee has not taken. The FSA State committee will also:

(1) Correct, or require an FSA county committee to correct, any action taken by the FSA county committee that is not in accordance with the regulations in this subpart; or

(2) Require an FSA county committee to withhold taking any action that is not in accordance with this subpart.

(d) No delegation to an FSA State or county committee precludes the FSA Administrator or the Deputy Administrator from determining any question arising under this subpart or from reversing or modifying any determination made by an FSA State or county committee.

(e) The Deputy Administrator has the authority to:

(1) Permit State and county committees to waive or modify a non-statutory deadline specified in this subpart; and

(2) Delegate authority to FSA State or county committees to make determinations under § 760.1812(f) and (g).

(f) Items of general applicability to program participants, including, but not limited to, application periods, application deadlines, internal operating guidelines issued to FSA State and county offices, prices, and payment factors established under this subpart, are not subject to appeal in accordance with part 780 of this chapter.

§ 760.1802 Definitions.

The following definitions apply to this subpart. The definitions in §§ 718.2 and 1400.3 of this title also apply, except where they conflict with the definitions in this section. In the event of conflict, the definitions in this section apply.

Affected production means the producer's ownership share of harvested production of an eligible crop, adjusted to standard moisture as established by the U.S. Grains Standards Act, a State regulatory agency, or industry standard, that had both:

(1) A quality loss due to a qualifying disaster event; and

(2) At least a 5 percent quality loss due to all eligible disaster events.

Average market price means the average market price determined according to § 1437.12 of this title.

Coverage level means the percentage determined by multiplying the elected yield percentage under a crop insurance policy or NAP coverage by the elected price percentage.

Crop insurance means an insurance policy reinsured by FCIC under the provisions of the Federal Crop Insurance Act, as amended. It does not include private plans of insurance.

Crop insurance indemnity means, for the purpose of this subpart, the payment to a participant for crop losses covered under crop insurance administered by RMA in accordance with the Federal Crop Insurance Act (7 U.S.C. 1501–1524).

Crop year means:

(1) For insurable crops, the crop year as defined according to the applicable crop insurance policy; and

(2) For NAP-eligible crops, the crop year as defined in § 1437.3 of this title.

Eligible crop means a crop for which coverage was available either from FCIC under part 400 of this title, or through NAP under § 1437.4 of this title.

Eligible disaster event means a disaster event that is an eligible cause of loss specified in § 1437.10 of this title, excluding insect infestation.

FCIC means the Federal Crop Insurance Corporation, a wholly owned Government Corporation of USDA, administered by RMA.

FSA means the Farm Service Agency, an agency of USDA.

Grading factor means a factor that describes the physical condition or a feature that is evaluated to determine the quality of the production, such as broken kernels and low-test weight.

Good farming practices means the cultural practices generally recognized as compatible with agronomic and weather conditions and used for the crop to make normal progress toward maturity, as determined by FSA. These practices are:

(1) For conventional farming practices, those generally recognized by agricultural experts for the area, which could include one or more counties; or

(2) For organic farming practices, those generally recognized by the organic agricultural experts for the area or contained in the organic system plan that is in accordance with the National Organic Program specified in part 205 of this title.

Harvested means:

(1) For insurable crops, harvested as defined according to the applicable crop insurance policy;

(2) For NAP-eligible single harvest crops, that a crop has been removed from the field, either by hand or mechanically;

(3) For NAP-eligible crops with potential multiple harvests in 1 year or harvested over multiple years, that the producer has, by hand or mechanically, removed at least 1 mature crop from the field during the crop year; and

(4) For mechanically harvested NAP-eligible crops, that the crop has been

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removed from the field and placed in a truck or other conveyance, except hay is considered harvested when in the bale, whether removed from the field or not.

Insurable crop means an agricultural crop (excluding livestock) for which the producer on a farm is eligible to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501–1524).

Multiple market crop means a crop that is delivered to a single market but can have fresh and processed prices based on grading. For example, a producer may intend to sell all production of an apple crop as fresh production; however, based on grading of the crop at the market, the producer is compensated for some production at the fresh price and for some production at the processing price.

Multiple planting means the planting for harvest of the same crop in more than one planting period in a crop year on different acreage.

NAP means the Noninsured Crop Disaster Assistance Program under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) and part 1437 of this title.

NAP-eligible crop means an agricultural crop for which the producer on a farm is eligible to obtain NAP coverage.

NAP service fee means the amount specified in § 1437.7 of this title that the producer must pay to obtain NAP coverage.

Nutrient factor means a factor determined by a test that measures the nutrient value of a crop to be fed to livestock. Examples include, but are not limited to, relative feed value and total digestible nutrients.

Production means quantity of the crop produced, which is expressed in a specific unit of measure including, but not limited to, bushels or pounds.

QLA Program means the Quality Loss Adjustment Program.

Qualifying disaster event means a hurricane, flood, tornado, typhoon, volcanic activity, snowstorm, wildfire, excessive moisture, qualifying drought, or a related condition that occurred in the 2018 or 2019 calendar year.

Qualifying drought means an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year.

Quality loss means:

(1) For forage crops, a reduction in an applicable nutrient factor for the crop; and

(2) For crops other than forage, a reduction in the total dollar value of the crop due to reduction in the physical condition of the crop indicated by an applicable grading factor.

Related condition means damaging weather or an adverse natural occurrence that occurred as a direct result of a specified qualifying disaster event, such as excessive rain, high winds, flooding, mudslides, and heavy smoke, as determined by the Deputy Administrator. The term does not include insect infestation.

Reliable production record means evidence provided by the participant that is used to substantiate the amount of production reported when verifiable records are not available, including copies of receipts, ledgers of income, income statements of deposit slips, register tapes, invoices for custom harvesting, and records to verify production costs, contemporaneous measurements, truck scale tickets, and contemporaneous diaries that are determined acceptable by the FSA county committee. To determine whether the records are acceptable, the FSA county committee will consider whether they are consistent with the records of other producers of the crop in that area.

RMA means the Risk Management Agency, an agency of USDA.

Salvage value means the dollar amount or equivalent for the quantity of the commodity that cannot be marketed or sold in any recognized market for the crop.

Secondary use means the harvesting of a crop for a use other than the intended use.

Unit of measure means:

(1) For insurable crops, the FCIC-established unit of measure; and

(2) For NAP-eligible crops, the established unit of measure used for the NAP price and yield.

USDA means the U.S. Department of Agriculture.

U.S. Drought Monitor is a system for classifying drought severity according to a range of abnormally dry to exceptional drought. It is a collaborative effort between Federal and academic partners, produced on a weekly basis, to synthesize multiple indices, outlooks, and drought impacts on a map and in narrative form. This synthesis of indices is reported by the National Drought Mitigation Center at *http://droughtmonitor.unl.edu.*

Value loss crop has the meaning specified in subpart D of part 1437 of this title.

Verifiable documentation means evidence that can be verified by FSA through an independent source.

Verifiable percentage of loss is the percentage of loss determined by comparing the applicable nutrient factors for a producer's affected production of a forage crop with the average of such nutrient factors from the 3 preceding crop years, as documented on FSA–899, Historical Nutritional Value Weighted Average Worksheet.

WHIP+ means the Wildfires and Hurricanes Indemnity Program Plus under subpart O of this part.

§ 760.1803 Participant eligibility.

(a) Participants will be eligible to receive a payment under this subpart only if they incurred a loss to an eligible crop due to a qualifying disaster event, as further specified in this subpart.

(b) To be an eligible participant under this subpart, a person or legal entity must be a:

(1) Citizen of the United States;

(2) Resident alien; for purposes of this subpart, resident alien means ''lawful alien'' (see § 1400.3 of this title);

(3) Partnership consisting solely of citizens of the United States or resident aliens; or

(4) Corporation, limited liability company, or other similar organizational structure organized under State law consisting solely of citizens or resident aliens of the United States.

(c) If any person who would otherwise be eligible to receive a payment dies before the payment is received, payment may be released as specified in § 707.3 of this chapter. Similarly, if any person or legal entity who would otherwise have been eligible to apply for a payment dies or is dissolved, respectively, before the payment is applied for, payment may be released in accordance with this subpart if a timely application is filed by an authorized representative. Proof of authority to sign for the deceased producer or dissolved entity must be provided. If a participant is now a dissolved general partnership or joint venture, all members of the general partnership or joint venture at the time of dissolution or their duly authorized representatives must sign the application. Eligibility of such participant will be determined, as it is for other participants, based upon ownership share and risk in producing the crop.

(d) An ownership share is required to be eligible for a payment under this subpart. Growers growing eligible crops under contract for crop owners are not eligible for a payment under this subpart unless the grower is also determined to have an ownership share of the crop. Any verbal or written contract that precludes the grower from having an ownership share renders the

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grower ineligible for payments under this subpart.

(e) A person or legal entity is not eligible to receive assistance under this subpart if FSA determines that the person or legal entity:

(1) Adopted any scheme or other device that tends to defeat the purpose of this subpart or any of the regulations applicable to this subpart;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination under any or all of the following: This subpart and parts 12, 400, 1400, and 1437 of this title.

(f) A person who is ineligible for crop insurance or NAP under § 400.458 or § 1437.16 of this title, respectively, for any year is ineligible for payments under this subpart for the same year.

(g) The provisions of § 718.11 of this chapter, providing for ineligibility for payments for offenses involving controlled substances, apply.

(h) As a condition of eligibility to receive payments under this subpart, the participant must have been in compliance with the Highly Erodible Land Conservation and Wetland Conservation provisions of part 12 of this title for the applicable crop year for which the producer is applying for benefits under this subpart, and must not otherwise be precluded from receiving payments under part 12, 400, 1400, or 1437 of this title or any law.

§ 760.1804 Eligibility of affected production.

(a) To be eligible for the QLA Program, an eligible crop's affected production must have suffered a quality loss due to a qualifying disaster event and had at least a 5 percent quality loss due to all eligible disaster events. Whether affected production of a crop had a 5 percent loss will be determined separately for crops with different crop types, intended uses, certified organic or conventional status, county, and crop year.

(b) Affected production of the following is not eligible for the QLA Program:

(1) Crops that were not grown commercially;

(2) Crops that were intended for grazing or were grazed;

(3) Crops not intended for harvest;

(4) Volunteer crops;

(5) Value loss crops;

(6) Maple sap;

(7) Honey;

(8) By-products resulting from processing or harvesting a crop, such as, but not limited to, cotton seed, peanut shells, wheat or oat straw, or corn stalks or stovers;

(9) First-year seeding for forage production;

(10) Immature fruit crops;

(11) Crops for which FCIC coverage or NAP coverage is unavailable;

(12) Multiple market crops for which the producer previously received a crop insurance indemnity or WHIP+ payment for a quality loss;

(13) Crops for which production used to calculate a crop insurance indemnity or WHIP+ payment was adjusted based on a comparison of the producer's sale price to FCIC established price;

(14) Crops that received a crop insurance indemnity, NAP payment, or WHIP+ payment based on the quantity of production that was considered unmarketable;

(15) Crops for which the producer previously received a crop insurance indemnity, NAP payment, or WHIP+ payment for which production was reported as salvage value or secondary use;

(16) Sugar beets for which a member of a cooperative processor received a payment through a cooperative agreement; and

(17) Crops that were destroyed.

(c) Only affected production from initial crop acreage will be eligible for a QLA Program payment, unless the provisions for subsequent crops in this section are met. All plantings of an annual or biennial crop are considered the same as a planting of an initial crop in tropical regions as defined in part 1437, subpart F, of this title.

(d) In cases where there is double cropped acreage, affected production of each crop may be eligible only if the specific crops are approved by the FSA State committee as eligible double cropping practices in accordance with procedures approved by the Deputy Administrator.

(e) Participants having affected production from multiple plantings may receive payments for each planting only if the planting meets the requirements of part 1437 of this title and all other provisions of this subpart are satisfied.

§ 760.1805 Qualifying disaster events.

(a) A producer is eligible for payments under this subpart only if the producer's affected production of an eligible crop suffered a crop quality loss due to a qualifying disaster event.

(b) A crop quality loss due to a qualifying disaster event must have occurred on acreage that was physically located in a county that received a:

(1) Presidential Emergency Disaster Declaration authorizing public assistance for categories C through G or individual assistance due to a qualifying disaster event occurring in the 2018 or 2019 calendar years; or

(2) Secretarial Disaster Designation for a qualifying disaster event occurring in the 2018 or 2019 calendar years.

(c) A producer with a crop quality loss on acreage not physically located in a county that was eligible under paragraph (b) of this section will be eligible for the QLA Program for losses due to qualifying disaster events only if the producer provides supporting documentation from which the FSA county committee determines that the crop quality loss on the unit was reasonably related to a qualifying disaster event as specified in this subpart. Supporting documentation may include furnishing climatological data from a reputable source or other information substantiating the claim of loss due to a qualifying disaster event.

§ 760.1806 Ineligible losses.

(a) A loss is not eligible under this subpart if any of the following apply:

(1) The cause of loss is determined by FSA to be the result of poor management decisions, poor farming practices, or drifting herbicides;

(2) The loss could have been mitigated using good farming practices, including losses due to high moisture content that could be mitigated by following best practices for drying and storing the crop;

(3) The qualifying disaster event occurred after the crop was harvested;

(4) FSA or RMA have previously disapproved a notice of loss for the crop and disaster event, unless that notice of loss was disapproved solely because it was filed after the applicable deadline; or

(5) The cause of loss was due to:

(i) Conditions or events occurring outside of the applicable growing season for the crop;

(ii) Insect infestation;

(iii) Water contained or released by any governmental, public, or private dam or reservoir project if an easement exists on the acreage affected by the containment or release of the water;

(iv) Failure of a power supply or brownout; or

(v) Failure to harvest or market the crop due to lack of a sufficient plan or resources.

(b) [Reserved]

§ 760.1807 Miscellaneous provisions.

(a) All persons with a financial interest in a legal entity receiving payments under this subpart are jointly and severally liable for any refund, including related charges, that is determined to be due to FSA for any reason.

(b) In the event that any application under this subpart resulted from

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erroneous information or a miscalculation, the payment will be recalculated and any excess refunded to FSA with interest to be calculated from the date of the disbursement.

(c) Any payment to any participant under this subpart will be made without regard to questions of title under State law, and without regard to any claim or lien against the commodity, or proceeds, in favor of the owner or any other creditor except agencies of the U.S. Government. The regulations governing offsets and withholdings in part 3 of this chapter apply to payments made under this subpart.

(d) Any participant entitled to any payment may assign any payment(s) in accordance with regulations governing the assignment of payments in part 3 of this chapter.

(e) The regulations in parts 11 and 780 of this title apply to determinations under this subpart.

§ 760.1808 General provisions.

(a) Eligibility and payments under this subpart will be determined based on the county where the affected production was harvested.

(b) FSA county committees will make any necessary adjustments to the applicant's affected production and other information on the application form used to calculate a payment when the county committee determines:

(1) Additional documentation has been requested by FSA but has not been provided by the participant;

(2) The loss is due to an ineligible cause; or

(3) The participant has a contract providing a guaranteed payment for all or a portion of the crop.

(c) Unless otherwise specified, all eligibility provisions of part 1437 of this title also apply to tropical crops for eligibility under this subpart.

(d) FSA will use the most reliable data available at the time payments under this subpart are calculated. If additional data or information is provided or becomes available after a payment is issued, FSA will recalculate the payment amount and the producer must return any overpayment amount to FSA. In all cases, payments can only issue based on the payment formula for losses that affirmatively occurred.

(e) Production that is commingled between counties, crop years, or ineligible and eligible acres before it was a matter of record or combination of record and cannot be separated by using records or other means acceptable to FSA will be prorated to each respective year, county, or type of acreage, respectively.

§ 760.1809 Payment and adjusted gross income limitation.

(a) A person or legal entity, other than a joint venture or general partnership, is eligible to receive, directly or indirectly, payments of not more than $125,000 for each of the 2018, 2019, and 2020 crop years under this subpart.

(b) Payments made to a joint operation, including a joint venture or general partnership, cannot exceed the amount determined by multiplying the maximum payment amount specified in paragraph (a) of this section by the number of persons and legal entities, other than joint operations, that comprise the ownership of the joint operation.

(c) The direct attribution provisions in § 1400.105 of this title apply to payments under this subpart.

(d) The notification of interest provisions in § 1400.107 of this title apply to payments under this subpart.

(e) The provisions for recognizing persons added to a farming operation for payment limitation purposes as described in § 1400.104 of this title apply to payments under this subpart.

(f) The $900,000 average AGI limitation provisions in part 1400 of this title relating to limits on payments for persons or legal entities, excluding joint ventures and general partnerships, apply to each applicant for the QLA Program unless at least 75 percent of the person or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. A person's or legal entity's average AGI for each of the program years 2018, 2019 or 2020, is determined by using the average of the adjusted gross incomes for the 3 taxable years preceding the most immediately preceding taxable year. If the person's or legal entity's average AGI is below $900,000 or at least 75 percent of the person or legal entity's average AGI is derived from farming, ranching, or forestry-related activities, the person or legal entity, is eligible to receive payments under this subpart.

§ 760.1810 Time and method of application.

(a) A completed FSA–898, Quality Loss Adjustment (QLA) Program Application, must be submitted in person, by mail, email, or facsimile to any FSA county office by the close of business on March 5, 2020.

(b) An application submitted in accordance with paragraph (a) of this section is not considered valid and complete for issuance of payment under this subpart unless FSA determines all the applicable eligibility provisions have been satisfied and the producer has submitted all of following by March 19, 2020:

(1) Documentation required by § 760.1811;

(2) FSA–578, Report of Acreage, for all acreage for any crop for which payments under this subpart are requested;

(3) FSA–895, Crop Insurance and/or NAP Coverage Agreement; and

(4) For forage crops, FSA–899, Historical Nutritional Value Weighted Average Worksheet, if verifiable documentation of historical nutrient factors is available.

(c) In addition to the forms listed in paragraph (b) of this section, applicants must also submit all the following eligibility forms within 60 days from the date of signing the QLA Program application if not already on file with FSA:

(1) AD–1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation Certification;

(2) CCC–902 Automated, Farm Operating Plan for Payment Eligibility 2009 and Subsequent Program Years;

(3) CCC–941 Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information; and

(4) CCC–942 Certification of Income from Farming, Ranching and Forestry Operations, if applicable.

(d) Failure to submit all required forms by the applicable deadlines in paragraphs (b) and (c) of this section may result in no payment or a reduced payment.

(e) Application approval and payment by FSA does not relieve a participant from having to submit any form required, but not filed, according to this section.

(f) Once signed by a producer, the application is considered to contain information and certifications of and pertaining to the producer regardless of who entered the information on the application.

(g) The producer applying for payment under this subpart certifies the accuracy and truthfulness of the information provided in the application as well as any documentation filed with or in support of the application. All information is subject to verification or spot check by FSA at any time, either before or after payment is issued. Refusal to allow FSA or any agency of the USDA to verify any information provided will result in the participant's forfeiting eligibility for payment under this subpart. FSA may at any time, including before, during, or after processing and paying an application, require the producer to submit any additional information necessary to implement or determine any eligibility

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provision of this subpart. Furnishing information specified in this subpart is voluntary; however, FSA may choose not to act on the application or approve payment if the required information is not provided. Providing a false certification will result in ineligibility and can also be punishable by imprisonment, fines, and other penalties.

§ 760.1811 Required documentation and verification.

(a) If requested by FSA, an applicant must provide documentation that establishes the applicant's ownership share and value at risk in the crop.

(b) The applicant must provide acceptable documentation that is dated and contains all information required to substantiate the applicant's certification to the satisfaction of the FSA county committee. Verifiable documentation is required to substantiate the total dollar value loss and associated affected production, grading factors, and nutritional factors. FSA may verify the records with records on file at the warehouse, gin, or other entity that received or may have received the reported production. Reliable production records are required to substantiate the reported amount of affected production for applications not based on the total dollar value loss.

(c) To be considered acceptable, verifiable documentation for grain crops that were sold may come from any time between harvest and sale of the affected production, unless the FSA county committee determines the record is not representative of the condition within 30 days of harvest. For all other crops, the verifiable documentation must come from tests or analysis completed within 30 days of harvest, unless the FSA county committee determines that the record is representative of the condition of the affected production at time of harvest. Examples of acceptable records for purposes of this paragraph (c) include:

(1) Warehouse grading sheets;

(2) Settlement sheets;

(3) Sales receipts showing grade and price or disposition to secondary market due to quality; and

(4) Laboratory test results.

(d) For forage crops, producers must submit verifiable documentation showing the nutrient factors for the affected production. Producers must also submit verifiable documentation of the historical nutrient factors for the 3 preceding crop years if available. The nutrient factors that must be documented for a crop will determined by the FSA county committee based on the standard practice for the crop in that county.

(e) For all crops other than forage crops, producers must submit verifiable documentation of the total dollar value loss due to quality, if available, and verifiable documentation of grading factors due to quality.

(f) The participant is responsible for:

(1) Retaining, providing, and summarizing, at time of application and whenever required by FSA, the best available verifiable production records for the crop;

(2) Providing the information in a manner that can be easily understood by the FSA county committee; and

(3) Providing supporting documentation about the disaster event if the FSA county committee has reason to question the disaster event.

(e) Participants must provide all records for any production of a crop that is grown with an arrangement, agreement, or contract for guaranteed payment.

(f) Participants are required to retain documentation in support of their application for 3 years after the date of approval.

(g) Participants receiving QLA Program payments or any other person who furnishes such information to USDA must permit authorized representatives of USDA or the Government Accountability Office, during regular business hours, to enter the agricultural operation and to inspect, examine, and make copies of books, records, or other items for the purpose of confirming the accuracy of the information provided by the participant.

§ 760.1812 Payment calculation.

(a) Payments will be calculated separately for crops based on the crop type, intended use, certified organic or conventional status, county, and crop year.

(b) For forage crops with verifiable documentation of nutrient factors for the affected production and for the 3 preceding crop years, the payment will be equal to the producer's total affected production multiplied by the producer's verifiable percentage of loss, multiplied by the average market price, multiplied by 70 percent.

(c) For forage crops with verifiable documentation of nutrient factors for the affected production but not for the 3 preceding crop years, the payment will be equal to the producer's total affected production multiplied by the county average percentage of loss in paragraph (f) of this section, multiplied by the average market price, multiplied by 70 percent, multiplied by 50 percent.

(d) For crops other than forage with verifiable documentation of the total dollar value loss due to quality, the payment will be equal to the producer's total dollar value loss on the affected production, multiplied by 70 percent.

(e) For crops other than forage without verifiable documentation of the total dollar value loss but with verifiable documentation of grading factors, the payment will be equal to the producer's affected production multiplied by the county average loss per unit of measure in paragraph (g) of this section, multiplied by 70 percent, multiplied by 50 percent.

(f) The county average percentage of loss is the average percentage of loss from producers eligible for payment under paragraph (b) of this section if at least 5 producers in a county are eligible for payment for a crop under paragraph (b) of this section. If less than 5 producers in a county are eligible for payment for a crop under paragraph (b) of this section, the Deputy Administrator will:

(1) Determine a county average percentage of loss based on the best available data, including, but not limited to, evidence of losses in contiguous counties; or

(2) If a county average percentage of loss cannot be determined due to insufficient data, not issue payments to applicants under paragraph (c) of this section.

(g) The county average loss per unit of measure is based on the weighted average sales price from producers eligible for payment under paragraph (d) of this section if at least 5 producers in a county are eligible for payment for a crop under paragraph (d) of this section. If less than 5 producers are eligible for payment in a county under paragraph (d) of this section, the Deputy Administrator will:

(1) Determine a county average loss per unit of measure based on the best available data, including, but not limited to, evidence of losses in contiguous counties; or

(2) If a county average loss per unit of measure cannot be determined due to insufficient data, not issue payments to applicants under paragraph (e) of this section.

§ 760.1813 Availability of funds and timing of payments.

(a) Payments will be issued after the application period has ended and all applications have been reviewed by FSA.

(b) In the event that, within the limits of the funding made available by the Secretary, approval of eligible applications would result in payments

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in excess of the amount available, FSA will prorate payments by a national factor to reduce the payments to an amount that is less than available funds as determined by the Secretary.

(c) Applications and claims that are unpaid or prorated for any reason will not be carried forward for payment under other funds for later years or otherwise, but will be considered, as to any unpaid amount, void and nonpayable.

§ 760.1814 Requirement to purchase crop insurance or NAP coverage.

(a) For the first 2 consecutive crop years for which crop insurance or NAP coverage is available after the enrollment period for the QLA Program ends, a participant who receives payment under this subpart for a crop loss in a county must obtain:

(1) For an insurable crop, crop insurance with at least a 60 percent coverage level for that crop in that county; or

(2) For a NAP-eligible crop, NAP coverage with a coverage level of 60 percent.

(b) Participants who exceed the average adjusted gross income limitation for NAP payment eligibility [1] for the applicable crop year may meet the purchase requirement specified in paragraph (a)(2) of this section by purchasing Whole-Farm Revenue Protection crop insurance coverage, if eligible, or paying the NAP service fee and premium even though the participant will not be eligible to receive a NAP payment due to the average adjusted gross income limit.

(c) The final crop year to purchase crop insurance or NAP coverage to meet the requirements of paragraph (a) of this section is the 2023 crop year.

(d) A participant who obtained crop insurance or NAP coverage for the crop in accordance with the requirements for WHIP+ in § 760.1517 is considered to have met the requirement to purchase crop insurance or NAP coverage for the QLA Program.

(e) If a producer fails to obtain crop insurance or NAP coverage as required in this section, the producer must reimburse FSA for the full amount of QLA Program payment plus interest. A producer will only be considered to have obtained NAP coverage for the purposes of this section if the participant submitted a NAP application for coverage and paid the requisite NAP service fee and any applicable premium by the applicable deadline and completed all program requirements required under the coverage agreement, including filing an acreage report.

Richard Fordyce,

Administrator, Farm Service Agency.

[FR Doc. 2020–28914 Filed 1–5–21; 8:45 am]

BILLING CODE 3410–05–P

[1] See §§ 1400.500(a) and 1400.1(a)(4) of this title.

DEPARTMENT OF ENERGY

10 CFR Part 1061

RIN 1990–AA50

Procedures for the Issuance of Guidance Documents

AGENCY: Office of the General Counsel, Department of Energy.

ACTION: Final rule.

SUMMARY: The U.S. Department of Energy (DOE) publishes this final rule to establish procedures for the issuance of DOE guidance documents in accordance with Executive Order 13891. In this final rule, DOE establishes internal agency requirements for the contents of guidance documents, and procedures for providing notice of, and soliciting public comment on, certain guidance documents. This final rule also establishes procedures for the public to petition DOE to modify or withdraw guidance documents.

DATES: The effective date of this rule is February 5, 2021.

ADDRESSES: The docket for this rulemaking, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *https://www.regulations.gov*. All documents in the docket are listed in the *https://www.regulations.gov* index. However, not all documents listed in the index, such as those containing information that is exempt from public disclosure by law, may be publicly available. A link to the docket web page can be found at *https://www.regulations.gov/document?D=DOE-HQ-2020-0033-0001*. The docket web page explains how to access all documents, including public comments, in the docket.

FOR FURTHER INFORMATION CONTACT: Mr. Matthew Ring, U.S. Department of Energy, Office of the General Counsel, Forrestal Building, GC–33, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–2555, Email: *Guidance@hq.doe.gov*.

SUPPLEMENTARY INFORMATION:

I. Summary of Final Rule

In this final rule, DOE incorporates into the Code of Federal Regulations a new 10 CFR part 1061, which implements the requirements of Executive Order 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents.'' (84 FR 55235 (Oct. 15, 2019)) Among other things, Executive Order 13891 requires agencies to provide more transparency for their guidance documents by creating a searchable online database for current guidance documents,[1] and by establishing procedures to allow the public to comment on significant guidance documents and to petition the agency to withdraw or modify guidance documents.[2] Moreover, the Executive Order requires agencies to clearly state in their guidance documents that such guidance does not have the force and effect of law and is not legally binding, except as authorized by law or as incorporated into a contract. (84 FR 55235, 55237)

This final rule applies to all DOE guidance documents, as defined by Executive Order 13891, including the exceptions listed in section 2 of the Executive Order. This final rule also lists specific types of documents and communications that fall within the broader exceptions listed in the Executive Order (*e.g.,* speeches and presentations given by DOE officials, legal positions taken in litigation or enforcement actions). (See also OMB M–20–02, Guidance Implementing Executive Order 13891, Titled ''Promoting the Rule of Law Through Improved Agency Guidance Documents'' (Oct. 31, 2019), available at *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*). This final rule also adopts the same definition of ''significant guidance document'' as section 2 of Executive Order 13891.

In accordance with Executive Order 13891, this final rule requires that all DOE guidance documents clearly state that they do not have the force and effect of law and are not legally binding on the public, and that they are only intended to provide clarity to the public

[1] DOE's online database may be found at *energy.gov/guidance*.

[2] Executive Order 13891 defines ''significant guidance document'' as ''a guidance document that may reasonably be anticipated to: (i) Lead to an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (ii) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (iii) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (iv) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles of Executive Order 12866.'' (84 FR 55235, 55236)

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An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

Elizabeth K. Appel,

Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2021–00317 Filed 1–8–21; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–OIA–31249; PIN00IO14.XI0000]

U.S. Nominations to the World Heritage List; 15-Day Notice of Opportunity for Public Comment

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: This notice requests public comment on the next potential U.S. nominations from the U.S. World Heritage Tentative List (''Tentative List'') to the United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage List. The public may also make suggestions for future additions to the Tentative List. This notice complies with applicable World Heritage Program regulations.

DATES: Comments will be accepted on or before January 26, 2021.

ADDRESSES: You may submit comments by either of the following methods:

- *Mail to:* Jonathan Putnam, Office of International Affairs, National Park Service, 1849 C Street NW, Washington, DC 20240.
- *Email to: jonathan_putnam@nps.gov*. Phone: (202) 354–1809.

Comments will not be accepted in any way other than those specified above.

Information on the U.S. World Heritage program can be found at: *https://www.nps.gov/subjects/internationalcooperation/worldheritage.htm*.

To request a paper copy of the U.S Tentative List, please contact April Brooks, Office of International Affairs, National Park Service, 1849 C Street NW, Room 2415, Washington, DC 20240 (202) 354–1808, or Email: *april_brooks@nps.gov*.

FOR FURTHER INFORMATION CONTACT: Jonathan Putnam, (202) 354–1809.

For the World Heritage nomination format, see the World Heritage Centre website at: *http://whc.unesco.org/en/nominations*.

SUPPLEMENTARY INFORMATION:

Background

The World Heritage List is an international list of cultural and natural properties nominated by the signatories to the World Heritage Convention (1972), an international treaty for the preservation of natural and cultural heritage sites of global significance. U.S. participation and the roles of the Department of the Interior and the National Park Service are authorized by Title IV of the Historic Preservation Act Amendments of 1980 and conducted in accordance with 36 CFR part 73—World Heritage Convention. The National Park Service serves as the principal technical agency for the U.S. Government to the Convention.

A Tentative List is a national list of natural and cultural properties appearing to meet the World Heritage Committee eligibility criteria for nomination to the World Heritage List. It is a list of candidate sites which a country may consider for nomination within a given time period, but does not guarantee future nomination. The World Heritage Committee's *Operational Guidelines* ask participating nations to provide Tentative Lists, which aid in evaluating properties for the World Heritage List on a comparative international basis and help the Committee to schedule its work over the long term. A country cannot nominate a property unless it has been on its Tentative List for a minimum of a year. Countries also are limited at this time to nominating no more than one site in any given year.

Neither inclusion in the Tentative List nor inscription as a World Heritage Site imposes legal restrictions on owners or neighbors of sites, nor does it give the United Nations any management authority or ownership rights in U.S. World Heritage Sites, which continue to be subject to U.S. laws.

Current U.S. World Heritage Tentative List

The current U.S. World Heritage Tentative List includes the following properties:

Cultural Sites

Civil Rights Movement Sites, Alabama [other properties would be added for a complete nomination]

—Dexter Avenue King Memorial Baptist Church, Montgomery
—Bethel Baptist Church, Birmingham
—16th Street Baptist Church, Birmingham

Dayton Aviation Sites, Ohio

—Dayton Aviation Heritage National Historical Park

Hopewell Ceremonial Earthworks, Ohio

—Fort Ancient State Memorial, Warren County
—Hopewell Culture National Historical Park, near Chillicothe
—Newark Earthworks State Historic Site, Newark and Heath

Jefferson (Thomas) Buildings, Virginia (Proposed Jointly as an Extension to the World Heritage Listing of Monticello and the University of Virginia Historic District)

—Poplar Forest, Bedford County
—Virginia State Capitol, Richmond

Mount Vernon, Virginia

Serpent Mound, Ohio

Ellis Island, New Jersey and New York

Chicago Early Skyscrapers, Illinois, including: [Other Properties May Be Added in the Course of Developing a Nomination]

—Rookery
—Auditorium Building
—Monadnock Building
—Ludington Building
—Marquette Building
—Old Colony Building
—Schlesinger & Mayer (Carson, Pirie Scott) Department Store
—Second Leiter Building
—Fisher Building

Central Park, New York

Brooklyn Bridge, New York

Moravian Bethlehem District, Pennsylvania

Natural Sites

National Marine Sanctuary of American Samoa (Formerly Fagatele Bay National Marine Sanctuary, American Samoa)

Okefenokee National Wildlife Refuge, Georgia

Petrified Forest National Park, Arizona

White Sands National Monument, New Mexico

Marianas Trench National Monument, U.S. Territory, Commonwealth of the Northern Mariana Islands, Guam

Central California Current, California, Including

—Cordell Bank National Marine Sanctuary
—Monterey Bay National Marine Sanctuary
—Greater Farallones National Marine Sanctuary
—Farallon Islands National Wildlife Refuge

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NM-OTERO-21-0275-A-000066

—Point Reyes National Seashore
—Golden Gate National Recreation Area

Big Bend National Park, Texas

Pacific Remote Islands National Monument, U.S. Territorial Waters

Notes: (1) A nomination for the Hopewell Ceremonial Earthworks was authorized for preparation in May 2018 by the Department of the Interior and is now under development. (2) The Department has requested and is now awaiting advice from the International Council on Monuments and Sites (ICOMOS) on adding other properties to the proposal for the Civil Rights Movement Sites and its overall justification. (3) The government of the German state of Saxony is proposing an extension to the World Heritage listing of Christiansfeld, a Moravian Church Settlement in Denmark, that would include Herrnhut in Germany, the Moravian Bethlehem District in Bethlehem, Pennsylvania, and potentially other historic Moravian settlements in other countries.

Request for Public Comments

Comments on whether to authorize the preparation of a World Heritage nomination for any of the properties on the Tentative List should address the readiness and ability of the property owner(s) to prepare a satisfactory nomination document. Suggestions for additions to the Tentative List not previously submitted must address: (i) How the property(ies) would meet the World Heritage nomination criteria, requirements for authenticity, integrity, legal protection and management. Information on these criteria and requirements can be found on the website noted in the **FOR FURTHER INFORMATION CONTACT** section of this notice; and (ii) The U.S. legal prerequisites that include the agreement of all property owners to the nomination of their property, an official determination that the property is nationally significant (such as by designation as a National Historic or National Natural Landmark), and effective legal protection. All previous suggestions for the Tentative List made during previous comment periods or otherwise submitted since 2008, have been retained and considered and should not be resubmitted at this time.

Selection and Nomination

All public comments will be summarized and provided to Department of the Interior officials, who will obtain the advice of the Federal Interagency Panel for World Heritage before making any selection of properties for authorization to prepare a World Heritage nomination. The selection may include relevant factors, such as the likelihood of being able to complete a satisfactory nomination, and the fact that the United States is currently prohibited by law from providing any funding to UNESCO, including UNESCO and World Heritage member dues. Once authorized, the property owners may prepare a draft nomination.

The Department does not have a fixed schedule for completing or submitting World Heritage nominations. No more than one nomination from any country may be submitted per year, per the UNESCO World Heritage *Operational Guidelines.* Completed nominations, if approved by the Department for submission, may be submitted to the UNESCO World Heritage Centre by February 1 of any year.

Public Availability of Comments

All comments will be a matter of public record. Before including an address, phone number, email address, or other personal identifying information in a comment, members of the public should be aware that the entire comment—including personal identifying information—may be made public at any time. While commenters can request that personal identifying information be withheld from public review, it may not be possible to comply with this request.

Authority: 54 U.S.C. 307101; 36 CFR part 73.

George Wallace,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2021–00310 Filed 1–8–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#-31331; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before December 25, 2020, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by January 26, 2021.

ADDRESSES: Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line ''Public Comment on property or proposed district name, (County) State.'' If you have no access to email you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before December 25, 2020. Pursuant to Section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State or Tribal Historic Preservation Officers:

CALIFORNIA

Orange County

Johnson, Hugh Edgar, House, 444 W. Brookdale Pl., Fullerton, SG100006089

FLORIDA

Monroe County

Matecumbe Methodist Church Cemetery, 81801 Overseas Hwy., Islamorada, SG100006117

Pinellas County

House at 827 Mandalay Avenue, 827 Mandalay Ave., Clearwater, SG100006118

Sumter County

Wild Cow Prairie Cemetery, 5822 Cty. Rd. 673, Bushnell vicinity, SG100006119

Volusia County

Wright, James W., Building, 258 West Voorhis Ave., DeLand, SG100006120

Walton County

Herman Lodge No. 108 Free & Accepted Masons of Florida, 314 Madison St., Freeport, SG100006121

ILLINOIS

Cook County

Irving, James B., House, 2771 Crawford Ave., Evanston, SG100006102

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From: Jonna Lou Schafer <boredwell@dellcity.com>
Sent: Monday, January 11, 2021 9:20 PM EST
To: Couy Griffin <cgriffin@co.otero.nm.us>; Gerald Matherly <gmatherly@co.otero.nm.us>; Vickie Marquardt <vmarquardt@co.otero.nm.us>
CC: Pamela Heltner <pheltner@co.otero.nm.us>; Brian Muise <b.k.muise@gmail.com>; Gary Scarbrough <gary@dellcity.com>; Henerietta Stockel <hstockel@tularosa.net>; Jeff Stephan <pc1chap.nm@gmail.com>; Jeff Stephen <casadeosos.jeff@gmail.com>; Judy Medeiros <judymedeiros@msn.com>; Schafer <boredwell@dellcity.com>; Sidney Gordon <sgordon@nmsu.edu>; Twyla Lewis <tflewis@pvtn.net>; Walt Coffman <walt@pvtnetworks.net>
Subject: Fw: Linebery weekly email (federal register)
Attachment(s): "2020-28879.pdf","2020-28881.pdf","2020-28914.pdf","2021-00310.pdf"

FYI

From: Nicholas Ashcroft
Sent: Monday, January 11, 2021 7:03 PM
To:
Subject: Linebery weekly email (federal register)

2020-28879 - Council on Environmental Quality. Notice of online portal for agency guidance documents.

2020-28881- Council on Environmental Quality. Final rule.

2020-28914- Agricultural Disaster Indemnity Programs: Farm Service Agency (FSA), Department of Agriculture (USDA). Final rule.

2021-00310- U.S. Nominations to the World Heritage List; 15-Day Notice of Opportunity for Public Comment: National Park Service, Interior.

Nick Ashcroft
Natural Resource Policy Analyst
Linebery Policy Center for Natural Resource Management

nashcrof@nmsu.edu
575-646-5508 (office)

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7910–00–685–6660—Pad, Machine, Scrubbing, Floor, 17″ x ¼″
7910–00–685–6671—Pad, Machine, Polishing, Floor, 15″ x ¼″
7910–00–685–6672—Pad, Machine, Polishing, Floor, 17″ x ¼″
7910–00–685–6686—Pad, Machine, Polishing, Floor, 12″ x ¼″
7910–00–685–6687—Pad, Machine, Polishing, Floor, 13″ x ¼″
7910–00–820–7989—Pad, Floor, Buffing, Nylon, Tan, 15″
7910–00–NIB–0006—Pad, Floor, Burnishing, Animal Hair, Gray, 17″
7910–00–NIB–0009—Pad, Floor, Burnishing, Animal Hair, Gray, 21″
7910–00–NIB–0016—Pad, Floor, Polishing, Animal Hair, Beige, 17″
7910–00–NIB–0029—Pad, Floor, Buffing, Polyester, Red, 14″
7910–00–NIB–0030—Pad, Floor, Buffing, Polyester, Red, 15″
7910–00–NIB–0034—Pad, Floor, Scrubbing, Polyester, Blue, 14″
7910–00–NIB–0040—Pad, Floor, Scrubbing, Polyester, Blue, 21″
7910–01–512–5933—Pad, Floor, Stripping, Polyester, Brown, 17″
7910–01–512–5937—Pad, Floor, Scrubbing, Polyester, Blue, 13″
7910–01–512–5950—Pad, Floor, Scrubbing, Polyester, Blue, 17″

Designated Source of Supply: Beacon Lighthouse, Inc., Wichita Falls, TX
Contracting Activity: GSA/FSS Greater Southwest ACQUISITI, Fort Worth, TX

Michael R. Jurkowski,

Deputy Director, Business & PL Operations.

[FR Doc. 2021–00151 Filed 1–7–21; 8:45 am]

BILLING CODE 6353–01–P

COUNCIL ON ENVIRONMENTAL QUALITY

Guidance Document Online Portal

AGENCY: Council on Environmental Quality.

ACTION: Notice of online portal for agency guidance documents.

SUMMARY: In accordance with Executive Order (E.O.) 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' dated October 9, 2019, and Office of Management and Budget (OMB) Memorandum M–20–02, dated October 31, 2019, the Council on Environmental Quality (CEQ) is providing notice of where the public may access CEQ guidance documents.

ADDRESSES: The portal may be found at *https://www.whitehouse.gov/ceq/resources/*.

FOR FURTHER INFORMATION CONTACT: Amy B. Coyle, Deputy General Counsel, Council on Environmental Quality, 730 Jackson Place NW, Washington, DC 20503, 202–395–5750, *amy.b.coyle@ceq.eop.gov*.

SUPPLEMENTARY INFORMATION: E.O. 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' [1] requires that each agency establish or maintain on its website a single, searchable, indexed database that contains or links to all agency guidance documents [2] in effect. In accordance with E.O. 13891 and OMB's implementing guidance, set forth in OMB Memorandum M–20–02,[3] CEQ has complied with this requirement through its website portal, which is available to the public at *whitehouse.gov/ceq/resources*.[4] As required by E.O. 13891, the website also reiterates that: (1) The contents of the guidance documents accessed through the portal lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract; and (2) these documents are intended only to provide clarity to the public regarding existing requirements under statutes and regulations administered by CEQ. Under the E.O., CEQ may not cite, use, or rely on any guidance document that is not posted on or linked to the website portal, except to establish historical facts.

CEQ will also include on its website portal a link to its final rule establishing CEQ's internal agency procedures for issuing guidance documents, required by section 4 of E.O. 13891. The final rule relating to CEQ's guidance document procedures is published elsewhere in this issue of the **Federal Register**.

Authority: 42 U.S.C. 4321–4347; 42 U.S.C. 4371–4375; and E.O. 13891, 84 FR 55235.

Mary B. Neumayr,

Chairman.

[FR Doc. 2020–28879 Filed 1–7–21; 8:45 am]

BILLING CODE 3125–F1–P

[1] 84 FR 55235 (Oct. 15, 2019).

[2] E.O. 13891 defines ''guidance document'' as ''an agency statement of general applicability, intended to have future effect on the behavior of regulated parties, that sets forth a policy on a statutory, regulatory, or technical issue, or an interpretation of a statute or regulation. . . .'' *Id.*

[3] OMB issued its guidance memorandum on October 31, 2019. *See* M–20–02, Guidance Implementing Executive Order 13891, Titled ''Promoting the Rule of Law Through Improved Agency Guidance Documents'' (Oct. 31, 2019), *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*.

[4] CEQ's website portal at *https://www.whitehouse.gov/ceq/resources/* includes links to CEQ guidance documents and resources, some of which are provided on nepa.gov (*https://www.energy.gov/nepa/ceq-guidance-documents*) and sustainability.gov (*https://www.sustainability.gov/resources.html*).

DEPARTMENT OF EDUCATION

[Docket No. ED–2020–SCC–0167]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before February 8, 2021.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Find this information collection request by selecting ''Department of Education'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox. Comments may also be sent to *ICDocketmgr@ed.gov*.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, (202) 377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note

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PART 220—[REMOVED]

■ Accordingly, for the reasons stated in the preamble and under the authority of 5 U.S.C. 301, the Corps removes 33 CFR part 220.

R.D. James,

Assistant Secretary of the Army (Civil Works).

[FR Doc. 2020–27908 Filed 1–7–21; 8:45 am]

BILLING CODE 3720–58–P

COUNCIL ON ENVIRONMENTAL QUALITY

40 CFR Part 1519

RIN 0331–AA04

Guidance Document Procedures

AGENCY: Council on Environmental Quality.

ACTION: Final rule.

SUMMARY: Pursuant to Executive Order (E.O.) 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' this final rule establishes the process that the Council on Environmental Quality (CEQ) will follow for issuing guidance documents. E.O. 13891 requires Federal agencies to finalize regulations or amend existing regulations to establish processes and procedures for issuing guidance documents.

DATES: This rule is effective January 8, 2021.

FOR FURTHER INFORMATION CONTACT: Amy B. Coyle, Deputy General Counsel, Council on Environmental Quality, 730 Jackson Place NW, Washington, DC 20503, (202) 395–5750, *amy.b.coyle@ceq.eop.gov*.

SUPPLEMENTARY INFORMATION:

On October 9, 2019, President Trump issued E.O. 13891,[1] which addresses the development, use, and public availability of agency guidance documents. It requires agencies to promulgate or update existing regulations setting forth their procedures for issuing guidance documents. In accordance with section 6 of E.O. 13891, on October 31, 2019, the Office of Management and Budget (OMB) issued memorandum M–20–02, ''Guidance Implementing Executive Order 13891, Titled 'Promoting the Rule of Law Through Improved Agency Guidance Documents' '' (OMB M–20–02)[2] to provide guidance and implement the Executive order. OMB M–20–02 provides agencies with additional instruction on how to implement E.O. 13891, including the required rulemaking.

I. Summary of Final Rule

In this final rule, CEQ adds a new part 1519 to the Code of Federal Regulations to set out its procedures for the development and issuance of guidance documents consistent with the direction and reflecting the policies described in E.O. 13891 and OMB M–20–02.

A. Section 1519.1, ''Purpose''

Section 1519.1, ''Purpose,'' states that the purpose of part 1519 is to implement E.O. 13891, and explains CEQ's process for developing and issuing guidance.

B. Section 1519.2, ''Guidance Document Procedures''

Section 1519.2, ''Guidance document procedures,'' defines ''guidance documents'' in paragraph (a) and describes documents that do not meet that definition in paragraph (b), consistent with section 2(b)[3] of the E.O. and Q2 of OMB M–20–02.

Paragraph (c) of § 1519.2 lists the minimum requirements for any document meeting the definition of a guidance document consistent with Q22 of OMB M–20–02, including a title, unique identification number, date, indication of whether it revises or replaces prior guidance, summaries, and legal citations. Additionally, consistent with section 4(i) of E.O. 13891, paragraph (c)(6) includes a requirement that each guidance document clearly state that it does not bind the public, except as authorized by law or as incorporated into a contract.

Paragraph (c)(11) of § 1519.2 specifies that any guidance document must be posted on CEQ's website. E.O. 13891 also directed Federal agencies to make guidance documents publicly available in an indexed, searchable database online. As described in the **Federal Register** notice published today, CEQ has complied with this requirement through its website *whitehouse.gov/ceq/resources*.[4] As noted on this website, CEQ may not cite, use, or rely on any guidance that is not posted on its web pages except to establish historical facts. CEQ also makes clear that CEQ's guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract.

Finally, paragraph (d) of § 1519.2 requires the CEQ Office of the General Counsel to review and clear all guidance documents before CEQ issues them.

C. Section 1519.3, ''Procedures for the Public To Request Withdrawal or Modification of a Guidance Document''

Consistent with section 4(ii) of E.O. 13891, § 1519.3, ''Procedures for the public to request withdrawal or modification of a guidance document,'' addresses the process for members of the public to petition CEQ to withdraw or modify a particular guidance document, including designation of the Office of the General Counsel as the office within CEQ to which the public should direct such petitions. CEQ intends to provide additional instructions on its guidance website, including appropriate contact information and format of the petitions.

D. Section 1519.4, ''Significant Guidance Documents''

Finally, § 1519.4, ''Significant guidance documents,'' addresses specific requirements for a subset of ''guidance documents'' that are ''significant guidance documents'' as defined by section 2(c) of E.O. 13891. Paragraph (a) sets forth that definition. OMB's Office of Information and Regulatory Affairs (OIRA) makes the final determination of whether a guidance document is significant. If OIRA makes such a determination for a particular guidance document, this section will also apply. Consistent with section 4(iii) of E.O. 13891, paragraph (b) sets forth procedural requirements, including public notice and comment for at least 30 days, unless an exception applies; public response to major concerns raised in comments; approval on a non-delegable basis by the Chairman, or an official acting as Chairman; review by OIRA under Executive Order 12866; and compliance with the applicable requirements for regulations or rules.

II. Rulemaking Analyses and Notices

A. Regulatory Procedures

Under the Administrative Procedure Act, an agency may waive notice and comment procedures if an action is an interpretative rule, a general statement of policy, or a rule of agency organization, procedure, or practice. *See* 5 U.S.C. 553(b)(A). This rule describes the internal process that CEQ will follow to comply with the requirements specified in E.O. 13891 when issuing guidance documents as defined by the

[1] 84 FR 55235 (Oct. 15, 2019).

[2] OMB M–20–02 is available at *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*.

[3] E.O. 13891 section 2(b) lists the following as exclusions to the definition of guidance document. 84 FR at 55235–36.

[4] CEQ's website, *whitehouse.gov/ceq/resources*, includes links to CEQ guidance documents and resources, some of which are provided on *nepa.gov* and *sustainability.gov*.

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E.O. Because this rule is one of agency organization, procedure, or practice, it is exempt from the requirement to provide prior notice and opportunity for public comment.

B. Regulatory Planning and Review (E.O. 12866 and E.O. 13563)

E.O. 12866 provides that OIRA will review all significant rules. E.O. 13563 reaffirms the principles of E.O. 12866, calling for improvements in the Federal government's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory objectives. OMB determined that this final rule does not meet the requirements for a significant regulatory action under E.O. 12866, as supplemented by E.O. 13563, and therefore it was not subject to review.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, as amended (RFA), 5 U.S.C. 601 *et seq.,* and E.O. 13272 do not apply to this rulemaking because it is not subject to the notice and comment requirements of 5 U.S.C. 553(b).

D. Unfunded Mandates Reform Act

A statement containing the information required by the Unfunded Mandates Reform Act, 2 U.S.C. 1531 *et seq.,* is not required. This rule will not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year, and it will not have a significant or unique effect on State, local, or Tribal governments, or the private sector.

E. Reducing Regulation and Controlling Regulatory Costs (E.O. 13771)

This rule is not an E.O. 13771 regulatory action because this rule is not significant under E.O. 12866.

F. Federalism (E.O. 13132)

Under the criteria in section 1 of E.O. 13132, this rule will not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement because it will not substantially and directly affect the relationship between the Federal and State governments.

G. National Environmental Policy Act

The purpose of this rulemaking is to formalize the CEQ's administrative procedures for issuing guidance documents, as required by E.O. 13891. CEQ has determined that the final rule is a non-major Federal action under the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.,* and would not have any effect on the environment because it merely outlines internal CEQ administrative procedures and does not authorize any activity or commit resources to a project that may affect the environment.

H. Paperwork Reduction Act

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This rule will not impose recordkeeping or reporting requirements on State, local, or Tribal governments, individuals, businesses, or organizations.

List of Subjects in 40 CFR Part 1519

Administrative practice and procedure, Guidance.

Mary B. Neumayr,
Chairman.

■ For the reasons stated in the preamble, the Council on Environmental Quality adds 40 CFR part 1519 as follows:

PART 1519—GUIDANCE DOCUMENTS

Sec.
1519.1 Purpose.
1519.2 Guidance document procedures.
1519.3 Procedures for the public to request withdrawal or modification of a guidance document.
1519.4 Significant guidance documents.

Authority: 42 U.S.C. 4321–4347; 42 U.S.C. 4371–4375; and E.O. 13891, 84 FR 55235.

§ 1519.1 Purpose.

(a) This part implements Executive Order 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' and reflects the policies described in that order. The provisions in this part address the Council on Environmental Quality's procedures for the development and issuance of agency guidance documents. This part explains what constitutes guidance documents, and sets forth the minimum requirements for guidance documents, the procedures to request withdrawal or modification of guidance documents, and the additional requirements and procedures for significant guidance documents.

(b) This part is intended to improve the internal management of the Council on Environmental Quality. It is not intended to and does not create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its agencies or other entities, its officers or employees, or any other person.

(c) If Executive Order 13891 or any provision thereof is rescinded or superseded, this part remains in effect.

§ 1519.2 Guidance document procedures.

(a) *Definition of guidance documents.* For purposes of this part, guidance documents are agency statements of general applicability, intended to have future effect on the behavior of regulated parties, that set forth a policy on a statutory, regulatory, or technical issue, or an interpretation of a statute or regulation.

(b) *Documents excluded from the definition of guidance documents.* Guidance documents do not include:

(1) Agency statements of specific, rather than general, applicability.

(2) Agency statements that do not set forth a policy on a statutory, regulatory, or technical issue or an interpretation of a statute or regulation.

(3) Legislative rules promulgated under 5 U.S.C. 553 (or similar statutory provisions), or exempt from rulemaking requirements under 5 U.S.C. 553(a).

(4) Rules of agency organization, procedure, or practice that are not anticipated to have substantial future effect on the behavior of regulated parties or the public.

(5) Decisions of agency adjudication.

(6) Documents or agency statements that are directed solely to the Council on Environmental Quality or other agencies (or personnel of such agencies) that are not anticipated to have substantial future effect on the behavior of regulated parties or the public.

(7) Legal briefs and other court filings.

(8) Legal advice or opinions from the Council on Environmental Quality's Office of the General Counsel.

(9) Categories of guidance documents made exempt from Executive Order 13891 by the Administrator of the Office of Management and Budget's Office of Information and Regulatory Affairs through memoranda issued pursuant to section 4(b) of Executive Order 13891.

(c) *Elements of guidance documents.* In general, each guidance document must:

(1) Provide the title of the guidance document;

(2) Provide a unique document identification number;

(3) Identify the Council on Environmental Quality and any office, as appropriate, issuing the guidance document;

(4) Include the date of issuance;

(5) Include the term ''guidance'';

(6) Include a disclaimer clarifying that it does not have the force and effect of law; is not meant to bind the public in any way; and is intended only to provide clarity to the public regarding

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existing requirements under the law or agency policies. When a guidance document is binding because the law authorizes binding guidance or because a contract incorporates the guidance, the Council on Environmental Quality must modify the disclaimer to reflect accordingly;

(7) If it is a revision to or a replacement of a previously issued guidance document, identify the guidance document that it revises or replaces;

(8) Include a short summary of the subject matter covered in the guidance document at the top of the document;

(9) Identify the activities to which and the persons to whom the guidance document applies;

(10) Include the citation to the statutory provision or regulation to which the guidance document applies or which it interprets; and

(11) Be posted on the Council on Environmental Quality's website.

(d) *Review and clearance.* The Office of the General Counsel must review and clear all proposed guidance documents before issuance.

§ 1519.3 Procedures for the public to request withdrawal or modification of a guidance document.

(a) Any member of the public may petition the Council on Environmental Quality to withdraw or modify a guidance document.

(b) The petitioner must submit the request for the withdrawal or modification of a guidance document in writing to the Office of the General Counsel. The petition must contain a statement of the reasons for the petition and any supporting documents to support the petitioner's request.

(c) Upon receipt of a petition for withdrawal or modification of a guidance document, the Office of the General Counsel will consult with the relevant offices and coordinate the response to the petition.

(d) The Council on Environmental Quality should respond to a petition in writing, including electronically, within 90 days of receipt of a petition. The response should state whether the petition is granted, granted in part and denied in part, denied, or provisionally denied for lack of adequate information. If the petition is provisionally denied for lack of adequate information, the response should indicate what additional information is necessary to adjudicate the petition. The Office of the General Counsel should respond to the petition in writing no later than 90 days after receipt of the necessary additional information. The response should state whether the petition is granted, granted in part and denied in part, or denied.

(e) The Council on Environmental Quality may consider in a coordinated manner or provide a coordinated response to similar petitions for withdrawal or modification.

(f) The Council on Environmental Quality need not respond to petitions under this part for withdrawal or modification of documents that do not meet the definition of a guidance document.

§ 1519.4 Significant guidance documents.

(a) *Significant guidance documents definition.* For the purposes of this section, significant guidance documents are guidance documents that may be reasonably anticipated to:

(1) Lead to an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles of Executive Order 12866.

(b) *Actions the Council on Environmental Quality will take before issuing significant guidance documents.* When the Office of Management and Budget's Office of Information and Regulatory Affairs determines that a guidance document is a significant guidance document, the Council on Environmental Quality must:

(1) Submit the guidance document for review by the Office of Information and Regulatory Affairs under Executive Order 12866;

(2) Publish the draft significant guidance document in the **Federal Register** for a public notice and comment period of at least 30 days;

(i) This provision will not apply if the Council on Environmental Quality for good cause finds that notice and public comment is impracticable, unnecessary, or contrary to the public interest.

(ii) If such a finding is made, the Council on Environmental Quality must incorporate such a finding and a brief statement of its reasoning into the significant guidance document.

(3) Obtain approval on a non-delegable basis from the Chairman or an official who is serving in an acting capacity as the Chairman.

(4) Provide a public response to major concerns raised in comments on the draft significant guidance document.

(5) Announce the availability of the final significant guidance document.

(6) Comply with the applicable requirements for regulations or rules, including significant regulatory actions, set forth in Executive Orders 12866, ''Regulatory Planning and Review,'' 13563, ''Improving Regulation and Regulatory Review,'' 13609, ''Promoting International Regulatory Cooperation,'' 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' and 13777, ''Enforcing the Regulatory Reform Agenda.''

(c) *Exemption.* This section will not apply if the Chairman or an official who is serving in an acting capacity as the Chairman of the Council on Environmental Quality and the Administrator of the Office of Information and Regulatory Affairs agree that exigency, safety, health, or other compelling cause warrants an exemption from some or all requirements.

[FR Doc. 2020–28881 Filed 1–7–21; 8:45 am]

BILLING CODE 3225–F1–P

FEDERAL PERMITTING IMPROVEMENT STEERING COUNCIL

40 CFR Chapter IX

[Agency Docket Number 2020–001]

RIN 3121–AA01

Adding Mining as a Sector of Projects Eligible for Coverage Under Title 41 of the Fixing America's Surface Transportation Act

AGENCY: Federal Permitting Improvement Steering Council.

ACTION: Final rule.

SUMMARY: The Federal Permitting Improvement Steering Council (Permitting Council) has voted to add mining as a sector with infrastructure projects eligible for coverage under Title 41 of the Fixing America's Surface Transportation Act (FAST–41). A new part will be included in the Code of Federal Regulations that adds mining to the list of statutory FAST–41 sectors. The addition of mining as a FAST–41 sector will allow qualified mining infrastructure projects to become FAST–41 covered projects. FAST–41 coverage will help Federal agencies coordinate their environmental and project review efforts to improve the timeliness, efficiency, predictability, and transparency of the decision-making processes associated with covered

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NM-OTERO-21-0275-A-000072

Rules and Regulations

Federal Register
Vol. 86, No. 3
Wednesday, January 6, 2021

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 760

[Docket ID: FSA–2020–0011]

RIN 0560–AI55

Agricultural Disaster Indemnity Programs

AGENCY: Farm Service Agency (FSA), Department of Agriculture (USDA).

ACTION: Final rule.

SUMMARY: This rule establishes the Quality Loss Adjustment (QLA) Program to provide assistance to producers who suffered eligible crop quality losses due to hurricanes, excessive moisture, floods, drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. It also amends the provisions for the Wildfire and Hurricane Indemnity Program Plus (WHIP+) to be consistent with the Further Consolidated Appropriations Act, 2020, by adding excessive moisture and drought occurring in 2018 and 2019 as qualifying disaster events and clarifying eligibility of sugar beets. The changes to WHIP+ were self-enacting and were previously implemented by FSA.

DATES:

Effective date: January 6, 2021.

Comment due date: Comments are due by March 8, 2021.

ADDRESSES: We invite you to submit comments on this rule. You may submit comments by either of the following methods, although FSA prefers that you submit comments electronically through the Federal eRulemaking Portal:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and search for Docket ID FSA–2020–0011. Follow the instructions for submitting comments.
- *Mail:* Director, SND, FSA, U.S. Department of Agriculture, 1400 Independence Avenue SW, Stop 0522, Washington, DC 20250–0522. In your comment, specify the docket ID FSA–2020–0011.

Comments will be available for viewing online at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Kimberly Graham at (202) 720–6825 (voice); or by email at: *kimberly.graham@usda.gov*. Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice).

SUPPLEMENTARY INFORMATION:

Background

The Additional Supplemental Appropriations for Disaster Relief Act, 2019 (''Disaster Relief Act,'' Pub. L. 116–20) provided disaster assistance for necessary expenses related to losses of crops (including milk, on-farm stored commodities, crops prevented from planting in 2019, and harvested adulterated wine grapes), trees, bushes, and vines, as a consequence of hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. The Further Consolidated Appropriations Act, 2020 (Pub. L. 116–94), makes several changes to the provisions of the Disaster Relief Act, including:

- Specifying that assistance would be provided for crop quality losses;
- Adding excessive moisture as a qualifying disaster event;
- Adding drought as a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year; and
- Providing that sugar beet losses in 2018 and 2019 would be paid through cooperative processors (to be paid to producer members as determined by such processors).

This rule implements those provisions of the Further Consolidated Appropriations Act, 2020, by establishing the QLA Program to provide assistance for crop quality losses and amending the WHIP+ regulations to be consistent with the changes to qualifying disaster events and eligibility of sugar beet losses.

QLA Program

This rule establishes the QLA Program to provide disaster assistance for crop quality losses that were a consequence of hurricanes, excessive moisture, floods, qualifying drought, tornadoes, typhoons, volcanic activity, snowstorms, or wildfires occurring in calendar years 2018 and 2019. Eligible crops generally include crops for which FCIC crop insurance coverage or Noninsured Crop Disaster Assistance Program (NAP) coverage is available; however, value loss crops,[1] honey, and maple sap are not eligible. The QLA Program provides assistance for losses to crops that were sold or fed to livestock or are in storage; crops that were destroyed are not eligible. Assistance will be based on a producer's harvested affected production of an eligible crop that had a quality loss due to a qualifying disaster event and had at least a 5 percent quality loss due to all eligible disaster events.

Qualifying disaster events include hurricanes, floods, tornados, typhoons, volcanic activity, snowstorms, wildfires, excessive moisture, qualifying drought, and related conditions that occurred in the 2018 or 2019 calendar year. Assistance is available for eligible producers in counties that received a qualifying Presidential Emergency Disaster Declaration (declaration) or Secretarial Disaster Designation (designation) due to one or more of the qualifying disaster events or a related condition. As required by the Further Consolidated Appropriations Act, 2020, drought is only a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year (referred to as ''qualifying drought'' in this rule). Only producers in those counties that received a disaster declaration or designation qualify for the QLA Program based on the declaration or designation. Producers in counties that did not receive a qualifying declaration or designation may still apply; however, they must also provide supporting documentation to establish that the crop was directly affected by a qualifying disaster event and suffered the same

[1] Value loss crops include aquaculture, floriculture, mushrooms, ginseng root, ornamental nursery, sea grass and sea oats, Christmas trees, and turfgrass sod.

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minimum loss as required by a crop in a disaster declared or designated county. Lists of counties with Presidential Emergency Disaster Declarations and Secretarial Disaster Designations for all qualifying disaster events for 2018 and 2019 are available at *farmers.gov/quality-loss.*

FSA recognizes that a crop may suffer quality losses due to multiple disaster events in a single crop year, and the portion of a crop's quality loss that can be attributed to a specific disaster event may be difficult to determine. Therefore, while a qualifying disaster event must have caused at least a portion of the affected production's quality loss, FSA will consider the total quality loss caused by all eligible disaster events for eligibility and payment calculation purposes. Eligible disaster events for the QLA Program include those listed for NAP in 7 CFR 1437.10, except that the QLA Program does not cover losses due to insect infestation.

The QLA Program does not cover losses due to disaster events occurring after a crop was harvested or due to crop deterioration while in storage. Quality losses that could have been mitigated using good farming practices are not eligible. For example, if a producer's corn crop received a quality discount due to high moisture content, the producer could have mitigated that quality loss by using best practices for drying and storing the crop; therefore, that producer's quality loss due to high moisture is not eligible. The QLA Program does not provide assistance for losses that cannot be determined to have occurred or for losses for which a notice of loss was previously disapproved by FSA, RMA, or an approved insurance provider selling and servicing Federal crop insurance policies unless that notice of loss was disapproved solely because it was filed after the applicable deadline.

The QLA Program does not provide assistance for certain quality losses that were already compensated under a Federal crop insurance plan, NAP, or WHIP+. This includes losses to affected production of:

- Multiple market crops already compensated under crop insurance or WHIP+;
- Crops for which production used to calculate a crop insurance indemnity or WHIP+ payment was adjusted based on a comparison of the producer's sale price to the FCIC established price;
- Crops that received a crop insurance indemnity, NAP payment, or WHIP+ payment based on the quantity of production that was considered unmarketable; and
- Crops for which production was reported as salvage value or secondary use.

The QLA Program also excludes quality losses to sugar beets that were compensated through cooperative agreements with cooperative processors.

Affected production of a subsequent crop grown on double cropped acreage is only eligible if the crop has been approved as an eligible double cropping practice by the FSA State committee.

Application

FSA will accept QLA Program applications from January 6, 2021, through March 5, 2021. To apply, producers must submit a completed QLA Program application either in person, by mail, email, or facsimile to an FSA county office. To be eligible, a producer must submit a complete application, which includes all of the following:

- FSA–898, Quality Loss Adjustment (QLA) Program Application;
- FSA–899, Historical Nutritional Value Weighted Average Worksheet (only for forage crops with verifiable documentation of historical nutrient factors from the 3 preceding crop years);
- FSA–578, Report of Acreage;
- FSA–895, Crop Insurance and/or NAP Coverage Agreement; and
- Required documentation, as discussed below.

The FSA–578, FSA–895, and FSA–899 forms, and other required documentation must be submitted to the producer's county office by March 19, 2021.

If not already on file with FSA, producers must also submit the following eligibility forms for each crop year within 60 days of the date the producer signs the application:

- AD–1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification;
- CCC–902, Farm Operating Plan for Payment Eligibility;
- CCC–941 Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information; and
- CCC–942 Certification of Income from Farming, Ranching and Forestry Operations, if applicable.

Payments will not be made until all necessary eligibility documentation is received. Failure of an applicant to submit documentation timely may result in FSA not issuing a payment or, in the case of legal entities, a reduced payment if the required documentation for one or more members of the entity is not submitted timely.

Required Documentation

To support their applications, producers must submit documentation showing the quality loss and quantity of affected production by March 19, 2021. Documentation of the quality loss (total dollar value loss, grading factors, and nutrient factors, as applicable), must be verifiable. Verifiable documentation is documentation that can be verified by FSA through an independent source; FSA may verify the submitted records with records on file at the warehouse, gin, laboratory, or other entity that received or tested the reported production. Examples of acceptable, verifiable documentation include warehouse grading sheets, settlement sheets, sales receipts, and laboratory test results. Except for grain crops that have been sold, the documentation must be from laboratory tests or analysis completed within 30 days of harvest to be considered acceptable, unless the FSA county committee determines that the record is representative of the condition of the affected production within 30 days of harvest. For grain crops that were sold, the verifiable documentation can be from any time from harvest through the time of sale, unless the FSA county committee determines the record is not representative of the condition within 30 days of harvest. Producers who do not have acceptable, verifiable documentation are ineligible for the QLA Program.

For forage crops, all producers must submit verifiable documentation showing the nutrient factors for the affected production of the crop. Producers must also submit verifiable documentation of the historical nutrient factors for the 3 preceding crop years if available. The type of nutrient factors (such as relative feed value or total digestible nutrients) that must be documented for a particular crop will be determined by the FSA county committee based on the standard practice for the crop in that county. For all crops other than forage crops, producers must submit verifiable documentation of the total dollar value loss due to quality, if available, and verifiable documentation of grading factors due to quality.

Documentation to support the quantity of affected production included on the application must be verifiable for non-forage crops that receive a QLA payment based on the producer's total dollar value loss. For all other crops (non-forage crops without a producer's total dollar value loss and all forage crops), records to support the quantity of affected production must be reliable. Reliable production records means evidence provided by the participant that is used to substantiate the amount of production reported when verifiable

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records are not available, including copies of receipts, ledgers of income, income statements of deposit slips, register tapes, invoices for custom harvesting, and records to verify production costs, contemporaneous measurements, truck scale tickets, and contemporaneous diaries that are determined acceptable by the FSA county committee. To determine whether the records are acceptable, the FSA county committee will consider whether they are consistent with the records of other producers of the crop in that area.

Payment Calculation

QLA Program payments will be calculated using different formulas based on the type of crop (forage or non-forage) and based on the type of documentation submitted. All QLA payments, regardless of whether they are forage or non-forage, and the type of documentation submitted, will be calculated using a 70 percent payment factor. Payments calculated based on a county average loss, as described below, will be subject to an additional payment factor of 50 percent.

For forage crops with verifiable documentation of both the nutrient factors for the affected production and historical nutrient factors for the 3 preceding crop years, payment will be equal to the amount of the producer's total affected production multiplied by the producer's verifiable percentage of loss, multiplied by the average market price determined by FSA, multiplied by 70 percent. The producer's verifiable percentage of loss is determined by comparing the nutrient factor test results for the affected production to the average from the 3 preceding crop years, as documented on the FSA–899, Historical Nutritional Value Weighted Average Worksheet. The average market price for the QLA Program is the price used for NAP established according to 7 CFR 1437.12.

For forage crops with verifiable documentation of nutrient factors for the affected production but without historical nutrient factors for the 3 preceding crop years, the payment will be equal to the amount of the producer's total affected production multiplied by the county average percentage of loss, multiplied by the average market price determined by FSA, multiplied by 70 percent, multiplied by 50 percent.

For affected production of non-forage crops with verifiable documentation of the total dollar value loss due to quality, the QLA Program payment is equal to the producer's total dollar value loss on the affected production of the crop, multiplied by a payment factor of 70 percent.

For non-forage crops without verifiable documentation of a total dollar value loss but with verifiable documentation of grading factors due to quality, the payment will be equal to the amount of producer's affected production multiplied by the county average loss per unit of measure, multiplied by 70 percent, multiplied by 50 percent.

To determine the county average percentage of loss (for forage crops) or the county average loss per unit of measure (for non-forage crops), FSA will calculate the average loss for a crop based on losses of producers applying with verifiable documentation of historical nutritional factors (for forage crops) or the total dollar value loss (for non-forage crops) if at least 5 eligible producers submitted that documentation in the county. If less than 5 eligible producers in a county submit verifiable documentation of their historical nutritional factors or their total dollar value loss, FSA will determine a county average percentage of loss or county average loss per unit of measure based on the best available data, including losses of other QLA Program participants in contiguous counties. If sufficient data is still not available after considering other sources, FSA may determine that a county average cannot be calculated and producers in that county applying for payment under the applicable calculation are ineligible.

Payments for the QLA Program will not be issued until the application period has ended in order to allow FSA to determine the county average losses, as well as the total payments requested under the QLA Program. The Further Consolidated Appropriations Act, 2020 provides funding for the QLA Program to be available until December 31, 2021, in an amount equal to the remaining funds provided under the Bipartisan Budget Act of 2018 (Pub. L. 115–123) for losses due to Hurricanes Harvey, Irma, Maria, and other hurricanes and wildfires occurring in calendar year 2017,[2] and remaining funds provided under the Disaster Relief Act for losses due to Hurricanes Michael and Florence, other hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.[3] If the total amount of calculated QLA Program payments exceeds the amount of funding available, FSA will prorate all payments by a national factor.

A person or legal entity, other than a joint venture or general partnership, is eligible to receive, directly or indirectly, up to $125,000 per crop year in QLA Program payments. FSA will use the notification of interest provisions in 7 CFR 1400.107 and payment attribution provisions in 7 CFR 1400.105 for attributing and limiting payments to persons and legal entities. FSA will also use provisions in 7 CFR 1400.104 when changes in a farming operation result in an increase in persons to which payment limitation applies. Payments made to a joint operation (including a general partnership or joint venture) cannot exceed $250,000 per person or legal entity that comprise the ownership of the joint operation. Payments made to a legal entity will be reduced proportionately by an amount that represents the direct or indirect ownership in the legal entity by any person or legal entity that has otherwise reached the maximum payment limitation. These rules for attributing and limiting payments are consistent with the programs FSA administers on behalf of the Commodity Credit Corporation.

A person or legal entity, other than a joint venture or general partnership, is ineligible for a 2018, 2019, or 2020 payment if the person's or legal entity's average adjusted gross income (AGI) is more than $900,000, unless at least 75 percent of that person's or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. The average AGI for each of the program years 2018, 2019, or 2020, is determined using the average of the adjusted gross incomes for the 3 taxable years preceding the most immediately preceding taxable year. For example, for the 2019 program year, the producer's AGI would be based on the 2015, 2016, and 2017 tax years. If at least 75 percent of the person's or legal entity's AGI is derived from farming, ranching, or forestry-related activities and the participant provides the required certification and documentation, the person or legal entity is eligible to

[2] FSA provided assistance for losses due to Hurricanes Harvey, Irma, Maria, and other hurricanes and wildfires occurring in calendar year 2017 through the 2017 Wildfires and Hurricanes Indemnity Program (2017 WHIP) (final rule published July 18, 2018, 83 FR 33795–33809) and the Florida Citrus Recovery Grant Program.

[3] FSA has previously provided assistance for losses due to Hurricanes Michael and Florence, other hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019 through the Wildfires and Hurricanes Indemnity Program Plus (WHIP+), On-Farm Storage Loss Program, and Milk Loss Program (final rule published September 13, 2019, 84 FR 48518–48537), as well as through several grants and cooperative agreements with sugar beet cooperatives.

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receive QLA Program payments up to the applicable payment limitation noted above. With respect to joint ventures and general partnerships, this AGI provision will be applied to each member of the joint venture and general partnership.

Requirement to Purchase Crop Insurance or NAP Coverage

The Disaster Relief Act requires all participants who receive QLA Program payments to purchase crop insurance or NAP coverage for the next 2 available crop years. The latest year for meeting compliance with this provision will be the 2023 crop year. In other words, if the 2 consecutive years of coverage are not met by 2023 coverage year, the participant is ineligible for and must refund QLP Program payments. Participants must obtain crop insurance or NAP, as may be applicable, at the 60 percent coverage level or higher. In situations where crop insurance is unavailable for a crop, the Disaster Relief Act requires that a QLA Program participant obtain NAP coverage. Section 1001D of the Food Security Act of 1985 (1985 Farm Bill) provides that a person or entity with AGI in amount greater than $900,000 is not eligible to participate in NAP; however, producers with an AGI greater than $900,000 may be eligible for the QLA Program if at least 75 percent of that person's or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. Accordingly, in order to reconcile this restriction in the 1985 Farm Bill and the Disaster Relief Act's requirement to obtain NAP or crop insurance coverage, QLA Program participants may meet the Disaster Relief Act's purchase requirement by purchasing Whole-Farm Revenue Protection crop insurance coverage, if eligible, or they may pay the applicable NAP service fee and premium for the 60 percent coverage level despite their ineligibility for a NAP payment. In other words, the service fee and premium must be paid even though no NAP payment may be made because the AGI of the person or entity exceeds the 1985 Farm Bill limitation.

The crop insurance and NAP coverage requirements are specific to the crop and county (county where the crop is physically located for insurance and administrative county for NAP) for which QLA Program payments are paid. This means that a producer is required to purchase crop insurance or NAP coverage for the crop in the county for which the producer was issued a QLA Program payment. Producers who receive a payment on a crop in a county and who have the crop or crop acreage in subsequent years, as provided in this rule, and who fail to obtain the 2 years of crop insurance or NAP coverage must refund all QLA Program payments for that crop in that county with interest from the date of disbursement. This is a condition of payment eligibility specified by Disaster Relief Act and is therefore not subject to partial payment eligibility or other types of equitable relief. Producers who were paid under the QLA Program for a crop in a county but do not plant that crop in a subsequent year are not subject to the crop insurance or NAP purchase requirement. WHIP+ participants who already met the requirement to purchase crop insurance or NAP coverage as specified in 7 CFR 760.1517 are considered to have also met the requirement to purchase crop insurance or NAP coverage for QLA Program purposes, and they are not required to obtain additional years of crop insurance or NAP coverage as a result of also receiving a QLA Program payment for that crop.

Applicable general eligibility requirements, including recordkeeping requirements and required compliance with HELC and Wetland Conservation provisions, are similar to those for the previous ad hoc crop disaster programs and current permanent disaster programs. All information provided to FSA for program eligibility and payment calculation purposes, including production records, is subject to spot check.

WHIP+

FSA, on behalf of the Secretary of Agriculture, previously implemented provisions of the Disaster Relief Act by establishing WHIP+ through a final rule published on September 19, 2019 (84 FR 48518–48537). The Disaster Relief Act provided assistance for losses of crops, trees, bushes, and vines, as a consequence of hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. WHIP+ covers only production losses of crops except in specific circumstances discussed previously in this document when the producer may have also been compensated for quality losses.

This rule amends 7 CFR 760.1500(c) and the definition of ''qualifying disaster event'' in § 760.1502 to include excessive moisture and qualifying drought. As under the QLA Program, drought is only considered a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year. This rule adds definitions of ''qualifying drought'' and ''U.S. Drought Monitor'' in § 760.1502.

The addition of these qualifying disaster events for WHIP+ was self-enacting as the text in the law clearly specified the required changes without need for interpretation; therefore, FSA began the sign-up period for losses due to excessive moisture and qualifying drought on March 23, 2020, and sign-up ended on October 30, 2020. Producers applying for WHIP+ assistance for losses due to excessive moisture or qualifying drought were required to meet all requirements in 7 CFR part 760, subpart O, including the requirement to purchase crop insurance for 2 years as specified in § 760.1517.

The Further Consolidated Appropriations Act, 2020 also directed the Secretary to pay sugar beet losses in 2018 and 2019 through cooperative processors. FSA has established cooperative agreements with sugar beet processors; those processors will be responsible for distributing assistance to their members. This rule amends the eligibility provisions in § 760.1517 to specify that members of cooperatives are not eligible for a WHIP+ payment for sugar beet losses.

FSA is also updating § 760.1510(a) to reflect the application deadline of October 30, 2020, and correcting references in §§ 760.1508(c) and (f) and 760.1511(a)(6).

Notice and Comment and Effective Date

The Administrative Procedure Act (5 U.S.C. 553) provides that the notice and comment and 30-day delay in the effective date provisions do not apply when the rule involves a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts. This rule involves programs for payments to certain agricultural commodity producers and therefore falls within that exemption. Due to the nature of the rule and the need to implement the regulations expeditiously to provide assistance to agricultural producers, FSA finds that notice and public procedure are contrary to the public interest. Therefore, even though this rule is a major rule for purposes of the Congressional Review Act, FSA is not required to delay the effective date for 60 days from the date of publication to allow for Congressional review. Therefore, this rule is effective upon publication in the **Federal Register**.

Executive Orders 12866, 13563, 13771 and 13777

Executive Order 12866, ''Regulatory Planning and Review,'' and Executive

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Order 13563, ''Improving Regulation and Regulatory Review,'' direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13777, ''Enforcing the Regulatory Reform Agenda,'' established a Federal policy to alleviate unnecessary regulatory burdens on the American people.

The Office of Management and Budget (OMB) designated this rule as economically significant under Executive Order 12866, and therefore, OMB has reviewed this rule. The costs and benefits of this rule are summarized below. The full cost benefit analysis is available on *regulations.gov.*

Executive Order 13771, titled Reducing Regulation and Controlling Regulatory Costs, was issued on January 30, 2017. The OMB guidance in M–17–21, dated April 5, 2017, specifies that ''transfers'' are not covered by Executive Order 13771 but that requirements imposed apart from transfers in transfer rules may qualify as costs or cost savings under Executive Order 13771, for example the information collection requirements in this rule. This rule is not subject to the requirements of E.O. 13771 because this rule results in no more than de minimis costs.

Cost Benefit Analysis Summary

WHIP+ initially provided approximately $3 billion in supplemental assistance to producers for qualifying agricultural production losses. In the Further Consolidated Appropriations Act, 2020, Congress changed provisions of the Disaster Relief Act as follows:

1. Extended eligibility under WHIP+ to also cover [4]—

a. Crop production losses due to excessive moisture in calendar years 2018 and 2019;

b. Crop production losses due to drought in calendar years 2018 and 2019 if the area within the county in which the loss occurred was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year;

2. Provided assistance for sugar beet losses in 2018 and 2019 to be paid through cooperative processors; [5] and

3. Authorized assistance for crop quality losses that occurred in calendar years 2018 and 2019 through the QLA Program (implemented by this rule).

Eligible crops under the QLA Program include crops for which Federal crop insurance or NAP coverage is available. To be eligible for the QLA Program, a crop must have suffered a quality loss due to a qualifying disaster event and had at least a 5 percent quality discount due to a combination of the qualifying disaster event and any other QLA-eligible causes of loss. Eligible crops may have been sold, fed on farm to livestock, or been in storage at the time of application.

USDA estimates the Further Consolidated Appropriations Act, 2020 will provide approximately $950 million for the continuation of disaster assistance program delivery, including payments to eligible producers for production losses due to excessive moisture and extreme drought under WHIP+ and for quality losses covered by the QLA Program. Of that amount, USDA anticipates that an estimated $500 million will be available for QLA Program payments. However, the amount of funding ultimately available for the QLA Program will not be known until other payments, for example for excessive moisture and drought under WHIP+, are finalized.

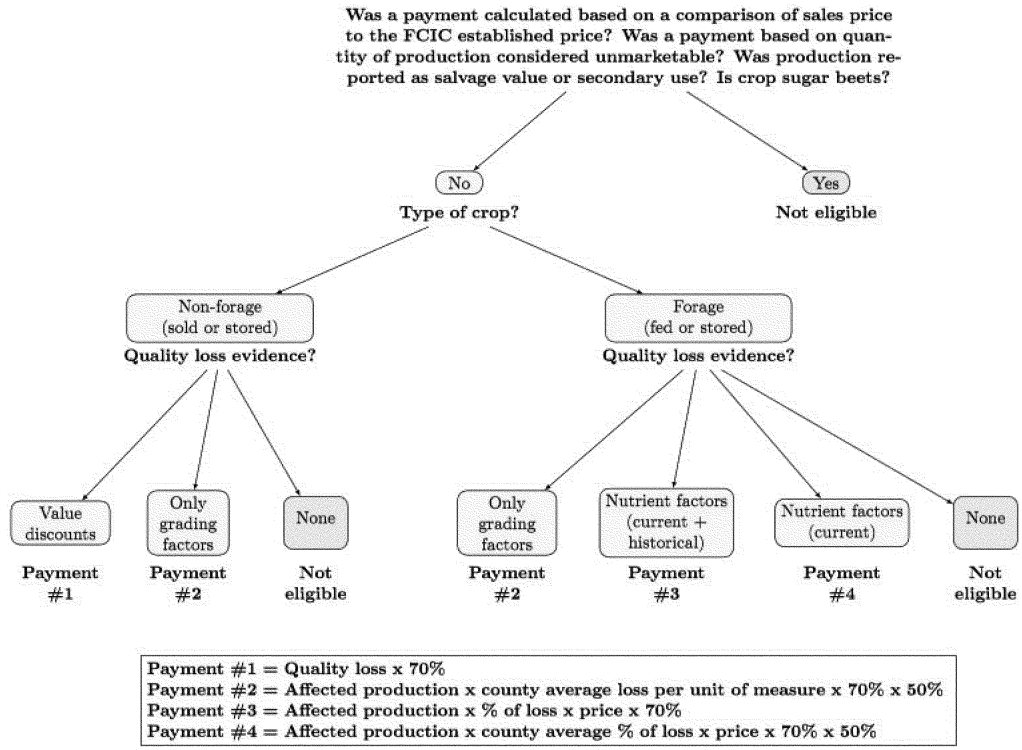
The QLA Program payment calculation depends on several factors, as shown in Figure 1. A producer is ineligible for a QLA Program payment if they received a crop insurance indemnity, NAP payment, or WHIP+ payment for a crop that was unmarketable, sold for salvage value or secondary use, or if the payment was based on a comparison of the sales price of the affected production and the applicable reference price. Otherwise, payments or benefits received under the Federal crop insurance, NAP or WHIP+ do not affect a producer's eligibility or payment received from the QLA Program. The payment calculation depends on the use of production (non-forage or forage) and evidence at hand of the crop quality loss. Producers who do not have evidence of the quality loss are ineligible.

[4] The addition of excessive moisture and certain drought conditions as qualifying causes of loss under WHIP+ is specific, not open to interpretation, and is therefore self-enacting. Accordingly, the provision was previously implemented. FSA began the sign-up period on March 23, 2020, and sign-up ended on October 30, 2020.

[5] Assistance for sugar beet losses for members of cooperative processors is provided through a separate program.

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Figure 1. Eligibility and Payment Calculation



Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA, Pub. L. 104–121), generally requires an agency to prepare a regulatory flexibility analysis of any rule whenever an agency is required by the Administrative Procedure Act or any other law to publish a proposed rule, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule is not subject to the Regulatory Flexibility Act because USDA is not required by Administrative Procedure Act or any law to publish a proposed rule for this rulemaking.

Environmental Review

The environmental impacts of this final rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and the FSA regulation for compliance with NEPA (7 CFR part 799). The legislative intent for implementing the QLA Program is to provide assistance to producers who suffered eligible crop quality losses due to hurricanes, excessive moisture, floods, drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.

While OMB has designated this rule as ''economically significant'' under Executive Order 12866, ''economic or social effects are not intended by themselves to require preparation of an environmental impact statement'' (see 40 CFR 1502.16(b)), when not interrelated to natural or physical environmental effects.

For this rule, the FSA Categorical Exclusions found in 7 CFR 799.31 apply, specifically 7 CFR 799.31(b)(6)(iii), (iv), and (vi) (that is, § 799.31(b)(6)(iii) Financial assistance to supplement income, manage the supply of agricultural commodities, or influence the cost or supply of such commodities or programs of a similar nature or intent (that is, price support programs); § 799.31(b)(6)(iv) Individual farm participation in FSA programs where no ground disturbance or change in land use occurs as a result of the proposed action or participation; and § 799.31(b)(6)(vi) Safety net programs administered by FSA). No Extraordinary Circumstances (7 CFR 799.33) exist.

For the outlined reasons, FSA has determined that the implementation of the QLA Program and the participation in the QLA Program does not constitute a major Federal action that would significantly affect the quality of the human environment, individually or cumulatively. Therefore, FSA will not prepare an environmental assessment or environmental impact statement for this regulatory action.

Executive Order 12372

Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' requires consultation with State and local officials that would be directly affect by proposed Federal financial assistance. The objectives of the Executive order are to foster an intergovernmental partnership and a strengthened federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance and direct Federal development. For reasons specified in the final rule related notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs and activities

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within this rule are excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, ''Civil Justice Reform.'' This rule will not preempt State or local laws, regulations, or policies unless they represent an irreconcilable conflict with this rule. The rule will not have retroactive effect. Before any judicial action may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR parts 11 and 780 must be exhausted.

Executive Order 13132

This rule has been reviewed under Executive Order 13132, ''Federalism.'' The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, except as required by law. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

The USDA's Office of Tribal Relations (OTR) has assessed the impact of this rule on Indian Tribes and determined that this rule may have significant Tribal implications that require ongoing adherence to Executive Order 13175. OTR notes that the programs are similar to programs that have been administered by FSA and RMA in the past; having not heard any concerns regarding the administration of these in the past, and the fact that provisions are mandated in the Disaster Relief Act, OTR recommended that consultation is not required at this time. Tribes can request consultation at any time. FSA will work with OTR to ensure meaningful consultation is provided where changes, additions, and modifications identified in this rule are not expressly mandated by law.

The Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104–4) requires Federal agencies to assess the effects of their regulatory actions on State local, and Tribal governments or the private sector. Agencies generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures of $100 million or more in any 1 year for State, local, or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates, as defined in Title II of UMRA, for State, local, and Tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, FSA submitted the QLA Program information collection request to OMB for emergency approval. OMB approved the 6-month emergency information collection.

E-Government Act Compliance

FSA is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Federal Assistance Programs

The titles and numbers of the Federal Domestic Assistance Program found in the Catalog of Federal Domestic Assistance to which this rule applies are:

10.129—Wildfire and Hurricanes Indemnity Program Plus
10.133—Quality Loss Adjustment Program

List of Subjects in 7 CFR Part 760

Dairy products, Indemnity payments, Reporting and recordkeeping requirements.

For the reasons discussed above, FSA amends 7 CFR part 760 as follows:

PART 760—INDEMNITY PAYMENT PROGRAMS

■ 1. Revise the authority citation for part 760 to read as follows:

Authority: 7 U.S.C. 4501 and 1531; 16 U.S.C. 3801, note; 19 U.S.C. 2497; Title III, Pub. L. 109–234, 120 Stat. 474; Title IX, Pub. L. 110–28, 121 Stat. 211; Sec. 748, Pub. L. 111–80, 123 Stat. 2131; Title I, Pub. L. 115–123, 132 Stat. 65; Title I, Pub. L. 116–20, 133 Stat. 871; and Division B, Title VII, Pub. L. 116–94, 133 Stat. 2658.

Subpart O—Agricultural Disaster Indemnity Programs

§ 760.1500 [Amended]

■ 2. In § 760.1500(c), remove the words ''and wildfires'' and add ''wildfires, excessive moisture, and qualifying drought'' in their place.

■ 3. Amend § 760.1502 as follows:

■ a. In the definition of ''Qualifying disaster event'', in paragraph (2) of remove the word ''wildfire'' and add ''wildfire, excessive moisture, qualifying drought'' in its place; and

■ b. Add the definitions of ''Qualifying drought'' and ''U.S. Drought Monitor'' in alphabetical order.

The additions read as follows:

§ 760.1502 Definitions.

* * * * *

Qualifying drought means an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year.

* * * * *

U.S. Drought Monitor is a system for classifying drought severity according to a range of abnormally dry to exceptional drought. It is a collaborative effort between Federal and academic partners, produced on a weekly basis, to synthesize multiple indices, outlooks, and drought impacts on a map and in narrative form. This synthesis of indices is reported by the National Drought Mitigation Center at *http://droughtmonitor.unl.edu.*

* * * * *

■ 4. In § 760.1503, add paragraph (j) to read as follows.

§ 760.1503 Eligibility.

* * * * *

(j) Members of cooperative processors are not eligible for WHIP+ assistance for sugar beet losses.

§ 760.1508 [Amended]

■ 5. Amend § 760.1508 as follows:

■ a. In paragraph (c), remove the cross reference ''paragraph (b)(1)'' and add the cross reference ''paragraph (b)'' in its place; and

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■ b. In paragraph (f), remove the cross reference ''paragraph (b)(1)'' and add cross reference ''paragraph (e)'' in its place.

§ 760.1510 [Amended]

■ 6. In § 760.1510(a), remove the words ''a date that will be announced by the Deputy Administrator'' and add ''October 30, 2020'' in their place.

§ 760.1511 [Amended]

■ 7. In § 760.1511(a)(6), remove the cross reference ''paragraph (f)'' and add cross reference ''paragraph (g)'' in its place.

■ 8. Add subpart R, consisting of §§ 760.1800 through 760.1814, to read as follows:

Subpart R—Quality Loss Adjustment Program

Sec.

760.1800 Applicability.
760.1801 Administration.
760.1802 Definitions.
760.1803 Participant eligibility.
760.1804 Eligibility of affected production.
760.1805 Qualifying disaster events.
760.1806 Ineligible losses.
760.1807 Miscellaneous provisions.
760.1808 General provisions.
760.1809 Payment and adjusted gross income limitation.
760.1810 Time and method of application.
760.1811 Required documentation and verification.
760.1812 Payment calculation.
760.1813 Availability of funds and timing of payments.
760.1814 Requirement to purchase crop insurance or NAP coverage.

§ 760.1800 Applicability.

This subpart specifies the terms and conditions for the Quality Loss Adjustment (QLA) Program. The QLA Program provides disaster assistance for crop quality losses that were a consequence of hurricanes, excessive moisture, floods, qualifying drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.

§ 760.1801 Administration.

(a) The QLA Program is administered under the general supervision of the Administrator, Farm Service Agency (FSA), and the Deputy Administrator for Farm Programs, FSA. The QLA Program is carried out by FSA State and county committees with instructions issued by the Deputy Administrator.

(b) FSA State and county committees, and representatives and their employees, do not have authority to modify or waive any of the provisions of the regulations in this subpart or instructions issued by the Deputy Administrator.

(c) The FSA State committee will take any action required by the regulations in this subpart that the FSA county committee has not taken. The FSA State committee will also:

(1) Correct, or require an FSA county committee to correct, any action taken by the FSA county committee that is not in accordance with the regulations in this subpart; or

(2) Require an FSA county committee to withhold taking any action that is not in accordance with this subpart.

(d) No delegation to an FSA State or county committee precludes the FSA Administrator or the Deputy Administrator from determining any question arising under this subpart or from reversing or modifying any determination made by an FSA State or county committee.

(e) The Deputy Administrator has the authority to:

(1) Permit State and county committees to waive or modify a non-statutory deadline specified in this subpart; and

(2) Delegate authority to FSA State or county committees to make determinations under § 760.1812(f) and (g).

(f) Items of general applicability to program participants, including, but not limited to, application periods, application deadlines, internal operating guidelines issued to FSA State and county offices, prices, and payment factors established under this subpart, are not subject to appeal in accordance with part 780 of this chapter.

§ 760.1802 Definitions.

The following definitions apply to this subpart. The definitions in §§ 718.2 and 1400.3 of this title also apply, except where they conflict with the definitions in this section. In the event of conflict, the definitions in this section apply.

Affected production means the producer's ownership share of harvested production of an eligible crop, adjusted to standard moisture as established by the U.S. Grains Standards Act, a State regulatory agency, or industry standard, that had both:

(1) A quality loss due to a qualifying disaster event; and

(2) At least a 5 percent quality loss due to all eligible disaster events.

Average market price means the average market price determined according to § 1437.12 of this title.

Coverage level means the percentage determined by multiplying the elected yield percentage under a crop insurance policy or NAP coverage by the elected price percentage.

Crop insurance means an insurance policy reinsured by FCIC under the provisions of the Federal Crop Insurance Act, as amended. It does not include private plans of insurance.

Crop insurance indemnity means, for the purpose of this subpart, the payment to a participant for crop losses covered under crop insurance administered by RMA in accordance with the Federal Crop Insurance Act (7 U.S.C. 1501–1524).

Crop year means:

(1) For insurable crops, the crop year as defined according to the applicable crop insurance policy; and

(2) For NAP-eligible crops, the crop year as defined in § 1437.3 of this title.

Eligible crop means a crop for which coverage was available either from FCIC under part 400 of this title, or through NAP under § 1437.4 of this title.

Eligible disaster event means a disaster event that is an eligible cause of loss specified in § 1437.10 of this title, excluding insect infestation.

FCIC means the Federal Crop Insurance Corporation, a wholly owned Government Corporation of USDA, administered by RMA.

FSA means the Farm Service Agency, an agency of USDA.

Grading factor means a factor that describes the physical condition or a feature that is evaluated to determine the quality of the production, such as broken kernels and low-test weight.

Good farming practices means the cultural practices generally recognized as compatible with agronomic and weather conditions and used for the crop to make normal progress toward maturity, as determined by FSA. These practices are:

(1) For conventional farming practices, those generally recognized by agricultural experts for the area, which could include one or more counties; or

(2) For organic farming practices, those generally recognized by the organic agricultural experts for the area or contained in the organic system plan that is in accordance with the National Organic Program specified in part 205 of this title.

Harvested means:

(1) For insurable crops, harvested as defined according to the applicable crop insurance policy;

(2) For NAP-eligible single harvest crops, that a crop has been removed from the field, either by hand or mechanically;

(3) For NAP-eligible crops with potential multiple harvests in 1 year or harvested over multiple years, that the producer has, by hand or mechanically, removed at least 1 mature crop from the field during the crop year; and

(4) For mechanically harvested NAP-eligible crops, that the crop has been

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removed from the field and placed in a truck or other conveyance, except hay is considered harvested when in the bale, whether removed from the field or not.

Insurable crop means an agricultural crop (excluding livestock) for which the producer on a farm is eligible to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501–1524).

Multiple market crop means a crop that is delivered to a single market but can have fresh and processed prices based on grading. For example, a producer may intend to sell all production of an apple crop as fresh production; however, based on grading of the crop at the market, the producer is compensated for some production at the fresh price and for some production at the processing price.

Multiple planting means the planting for harvest of the same crop in more than one planting period in a crop year on different acreage.

NAP means the Noninsured Crop Disaster Assistance Program under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) and part 1437 of this title.

NAP-eligible crop means an agricultural crop for which the producer on a farm is eligible to obtain NAP coverage.

NAP service fee means the amount specified in § 1437.7 of this title that the producer must pay to obtain NAP coverage.

Nutrient factor means a factor determined by a test that measures the nutrient value of a crop to be fed to livestock. Examples include, but are not limited to, relative feed value and total digestible nutrients.

Production means quantity of the crop produced, which is expressed in a specific unit of measure including, but not limited to, bushels or pounds.

QLA Program means the Quality Loss Adjustment Program.

Qualifying disaster event means a hurricane, flood, tornado, typhoon, volcanic activity, snowstorm, wildfire, excessive moisture, qualifying drought, or a related condition that occurred in the 2018 or 2019 calendar year.

Qualifying drought means an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year.

Quality loss means:

(1) For forage crops, a reduction in an applicable nutrient factor for the crop; and

(2) For crops other than forage, a reduction in the total dollar value of the crop due to reduction in the physical condition of the crop indicated by an applicable grading factor.

Related condition means damaging weather or an adverse natural occurrence that occurred as a direct result of a specified qualifying disaster event, such as excessive rain, high winds, flooding, mudslides, and heavy smoke, as determined by the Deputy Administrator. The term does not include insect infestation.

Reliable production record means evidence provided by the participant that is used to substantiate the amount of production reported when verifiable records are not available, including copies of receipts, ledgers of income, income statements of deposit slips, register tapes, invoices for custom harvesting, and records to verify production costs, contemporaneous measurements, truck scale tickets, and contemporaneous diaries that are determined acceptable by the FSA county committee. To determine whether the records are acceptable, the FSA county committee will consider whether they are consistent with the records of other producers of the crop in that area.

RMA means the Risk Management Agency, an agency of USDA.

Salvage value means the dollar amount or equivalent for the quantity of the commodity that cannot be marketed or sold in any recognized market for the crop.

Secondary use means the harvesting of a crop for a use other than the intended use.

Unit of measure means:

(1) For insurable crops, the FCIC-established unit of measure; and

(2) For NAP-eligible crops, the established unit of measure used for the NAP price and yield.

USDA means the U.S. Department of Agriculture.

U.S. Drought Monitor is a system for classifying drought severity according to a range of abnormally dry to exceptional drought. It is a collaborative effort between Federal and academic partners, produced on a weekly basis, to synthesize multiple indices, outlooks, and drought impacts on a map and in narrative form. This synthesis of indices is reported by the National Drought Mitigation Center at *http://droughtmonitor.unl.edu.*

Value loss crop has the meaning specified in subpart D of part 1437 of this title.

Verifiable documentation means evidence that can be verified by FSA through an independent source.

Verifiable percentage of loss is the percentage of loss determined by comparing the applicable nutrient factors for a producer's affected production of a forage crop with the average of such nutrient factors from the 3 preceding crop years, as documented on FSA–899, Historical Nutritional Value Weighted Average Worksheet.

WHIP+ means the Wildfires and Hurricanes Indemnity Program Plus under subpart O of this part.

§ 760.1803 Participant eligibility.

(a) Participants will be eligible to receive a payment under this subpart only if they incurred a loss to an eligible crop due to a qualifying disaster event, as further specified in this subpart.

(b) To be an eligible participant under this subpart, a person or legal entity must be a:

(1) Citizen of the United States;

(2) Resident alien; for purposes of this subpart, resident alien means ''lawful alien'' (see § 1400.3 of this title);

(3) Partnership consisting solely of citizens of the United States or resident aliens; or

(4) Corporation, limited liability company, or other similar organizational structure organized under State law consisting solely of citizens or resident aliens of the United States.

(c) If any person who would otherwise be eligible to receive a payment dies before the payment is received, payment may be released as specified in § 707.3 of this chapter. Similarly, if any person or legal entity who would otherwise have been eligible to apply for a payment dies or is dissolved, respectively, before the payment is applied for, payment may be released in accordance with this subpart if a timely application is filed by an authorized representative. Proof of authority to sign for the deceased producer or dissolved entity must be provided. If a participant is now a dissolved general partnership or joint venture, all members of the general partnership or joint venture at the time of dissolution or their duly authorized representatives must sign the application. Eligibility of such participant will be determined, as it is for other participants, based upon ownership share and risk in producing the crop.

(d) An ownership share is required to be eligible for a payment under this subpart. Growers growing eligible crops under contract for crop owners are not eligible for a payment under this subpart unless the grower is also determined to have an ownership share of the crop. Any verbal or written contract that precludes the grower from having an ownership share renders the

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grower ineligible for payments under this subpart.

(e) A person or legal entity is not eligible to receive assistance under this subpart if FSA determines that the person or legal entity:

(1) Adopted any scheme or other device that tends to defeat the purpose of this subpart or any of the regulations applicable to this subpart;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination under any or all of the following: This subpart and parts 12, 400, 1400, and 1437 of this title.

(f) A person who is ineligible for crop insurance or NAP under § 400.458 or § 1437.16 of this title, respectively, for any year is ineligible for payments under this subpart for the same year.

(g) The provisions of § 718.11 of this chapter, providing for ineligibility for payments for offenses involving controlled substances, apply.

(h) As a condition of eligibility to receive payments under this subpart, the participant must have been in compliance with the Highly Erodible Land Conservation and Wetland Conservation provisions of part 12 of this title for the applicable crop year for which the producer is applying for benefits under this subpart, and must not otherwise be precluded from receiving payments under part 12, 400, 1400, or 1437 of this title or any law.

§ 760.1804 Eligibility of affected production.

(a) To be eligible for the QLA Program, an eligible crop's affected production must have suffered a quality loss due to a qualifying disaster event and had at least a 5 percent quality loss due to all eligible disaster events. Whether affected production of a crop had a 5 percent loss will be determined separately for crops with different crop types, intended uses, certified organic or conventional status, county, and crop year.

(b) Affected production of the following is not eligible for the QLA Program:

(1) Crops that were not grown commercially;

(2) Crops that were intended for grazing or were grazed;

(3) Crops not intended for harvest;

(4) Volunteer crops;

(5) Value loss crops;

(6) Maple sap;

(7) Honey;

(8) By-products resulting from processing or harvesting a crop, such as, but not limited to, cotton seed, peanut shells, wheat or oat straw, or corn stalks or stovers;

(9) First-year seeding for forage production;

(10) Immature fruit crops;

(11) Crops for which FCIC coverage or NAP coverage is unavailable;

(12) Multiple market crops for which the producer previously received a crop insurance indemnity or WHIP+ payment for a quality loss;

(13) Crops for which production used to calculate a crop insurance indemnity or WHIP+ payment was adjusted based on a comparison of the producer's sale price to FCIC established price;

(14) Crops that received a crop insurance indemnity, NAP payment, or WHIP+ payment based on the quantity of production that was considered unmarketable;

(15) Crops for which the producer previously received a crop insurance indemnity, NAP payment, or WHIP+ payment for which production was reported as salvage value or secondary use;

(16) Sugar beets for which a member of a cooperative processor received a payment through a cooperative agreement; and

(17) Crops that were destroyed.

(c) Only affected production from initial crop acreage will be eligible for a QLA Program payment, unless the provisions for subsequent crops in this section are met. All plantings of an annual or biennial crop are considered the same as a planting of an initial crop in tropical regions as defined in part 1437, subpart F, of this title.

(d) In cases where there is double cropped acreage, affected production of each crop may be eligible only if the specific crops are approved by the FSA State committee as eligible double cropping practices in accordance with procedures approved by the Deputy Administrator.

(e) Participants having affected production from multiple plantings may receive payments for each planting only if the planting meets the requirements of part 1437 of this title and all other provisions of this subpart are satisfied.

§ 760.1805 Qualifying disaster events.

(a) A producer is eligible for payments under this subpart only if the producer's affected production of an eligible crop suffered a crop quality loss due to a qualifying disaster event.

(b) A crop quality loss due to a qualifying disaster event must have occurred on acreage that was physically located in a county that received a:

(1) Presidential Emergency Disaster Declaration authorizing public assistance for categories C through G or individual assistance due to a qualifying disaster event occurring in the 2018 or 2019 calendar years; or

(2) Secretarial Disaster Designation for a qualifying disaster event occurring in the 2018 or 2019 calendar years.

(c) A producer with a crop quality loss on acreage not physically located in a county that was eligible under paragraph (b) of this section will be eligible for the QLA Program for losses due to qualifying disaster events only if the producer provides supporting documentation from which the FSA county committee determines that the crop quality loss on the unit was reasonably related to a qualifying disaster event as specified in this subpart. Supporting documentation may include furnishing climatological data from a reputable source or other information substantiating the claim of loss due to a qualifying disaster event.

§ 760.1806 Ineligible losses.

(a) A loss is not eligible under this subpart if any of the following apply:

(1) The cause of loss is determined by FSA to be the result of poor management decisions, poor farming practices, or drifting herbicides;

(2) The loss could have been mitigated using good farming practices, including losses due to high moisture content that could be mitigated by following best practices for drying and storing the crop;

(3) The qualifying disaster event occurred after the crop was harvested;

(4) FSA or RMA have previously disapproved a notice of loss for the crop and disaster event, unless that notice of loss was disapproved solely because it was filed after the applicable deadline; or

(5) The cause of loss was due to:

(i) Conditions or events occurring outside of the applicable growing season for the crop;

(ii) Insect infestation;

(iii) Water contained or released by any governmental, public, or private dam or reservoir project if an easement exists on the acreage affected by the containment or release of the water;

(iv) Failure of a power supply or brownout; or

(v) Failure to harvest or market the crop due to lack of a sufficient plan or resources.

(b) [Reserved]

§ 760.1807 Miscellaneous provisions.

(a) All persons with a financial interest in a legal entity receiving payments under this subpart are jointly and severally liable for any refund, including related charges, that is determined to be due to FSA for any reason.

(b) In the event that any application under this subpart resulted from

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erroneous information or a miscalculation, the payment will be recalculated and any excess refunded to FSA with interest to be calculated from the date of the disbursement.

(c) Any payment to any participant under this subpart will be made without regard to questions of title under State law, and without regard to any claim or lien against the commodity, or proceeds, in favor of the owner or any other creditor except agencies of the U.S. Government. The regulations governing offsets and withholdings in part 3 of this chapter apply to payments made under this subpart.

(d) Any participant entitled to any payment may assign any payment(s) in accordance with regulations governing the assignment of payments in part 3 of this chapter.

(e) The regulations in parts 11 and 780 of this title apply to determinations under this subpart.

§ 760.1808 General provisions.

(a) Eligibility and payments under this subpart will be determined based on the county where the affected production was harvested.

(b) FSA county committees will make any necessary adjustments to the applicant's affected production and other information on the application form used to calculate a payment when the county committee determines:

(1) Additional documentation has been requested by FSA but has not been provided by the participant;

(2) The loss is due to an ineligible cause; or

(3) The participant has a contract providing a guaranteed payment for all or a portion of the crop.

(c) Unless otherwise specified, all eligibility provisions of part 1437 of this title also apply to tropical crops for eligibility under this subpart.

(d) FSA will use the most reliable data available at the time payments under this subpart are calculated. If additional data or information is provided or becomes available after a payment is issued, FSA will recalculate the payment amount and the producer must return any overpayment amount to FSA. In all cases, payments can only issue based on the payment formula for losses that affirmatively occurred.

(e) Production that is commingled between counties, crop years, or ineligible and eligible acres before it was a matter of record or combination of record and cannot be separated by using records or other means acceptable to FSA will be prorated to each respective year, county, or type of acreage, respectively.

§ 760.1809 Payment and adjusted gross income limitation.

(a) A person or legal entity, other than a joint venture or general partnership, is eligible to receive, directly or indirectly, payments of not more than $125,000 for each of the 2018, 2019, and 2020 crop years under this subpart.

(b) Payments made to a joint operation, including a joint venture or general partnership, cannot exceed the amount determined by multiplying the maximum payment amount specified in paragraph (a) of this section by the number of persons and legal entities, other than joint operations, that comprise the ownership of the joint operation.

(c) The direct attribution provisions in § 1400.105 of this title apply to payments under this subpart.

(d) The notification of interest provisions in § 1400.107 of this title apply to payments under this subpart.

(e) The provisions for recognizing persons added to a farming operation for payment limitation purposes as described in § 1400.104 of this title apply to payments under this subpart.

(f) The $900,000 average AGI limitation provisions in part 1400 of this title relating to limits on payments for persons or legal entities, excluding joint ventures and general partnerships, apply to each applicant for the QLA Program unless at least 75 percent of the person or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. A person's or legal entity's average AGI for each of the program years 2018, 2019 or 2020, is determined by using the average of the adjusted gross incomes for the 3 taxable years preceding the most immediately preceding taxable year. If the person's or legal entity's average AGI is below $900,000 or at least 75 percent of the person or legal entity's average AGI is derived from farming, ranching, or forestry-related activities, the person or legal entity, is eligible to receive payments under this subpart.

§ 760.1810 Time and method of application.

(a) A completed FSA–898, Quality Loss Adjustment (QLA) Program Application, must be submitted in person, by mail, email, or facsimile to any FSA county office by the close of business on March 5, 2020.

(b) An application submitted in accordance with paragraph (a) of this section is not considered valid and complete for issuance of payment under this subpart unless FSA determines all the applicable eligibility provisions have been satisfied and the producer has submitted all of following by March 19, 2020:

(1) Documentation required by § 760.1811;

(2) FSA–578, Report of Acreage, for all acreage for any crop for which payments under this subpart are requested;

(3) FSA–895, Crop Insurance and/or NAP Coverage Agreement; and

(4) For forage crops, FSA–899, Historical Nutritional Value Weighted Average Worksheet, if verifiable documentation of historical nutrient factors is available.

(c) In addition to the forms listed in paragraph (b) of this section, applicants must also submit all the following eligibility forms within 60 days from the date of signing the QLA Program application if not already on file with FSA:

(1) AD–1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation Certification;

(2) CCC–902 Automated, Farm Operating Plan for Payment Eligibility 2009 and Subsequent Program Years;

(3) CCC–941 Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information; and

(4) CCC–942 Certification of Income from Farming, Ranching and Forestry Operations, if applicable.

(d) Failure to submit all required forms by the applicable deadlines in paragraphs (b) and (c) of this section may result in no payment or a reduced payment.

(e) Application approval and payment by FSA does not relieve a participant from having to submit any form required, but not filed, according to this section.

(f) Once signed by a producer, the application is considered to contain information and certifications of and pertaining to the producer regardless of who entered the information on the application.

(g) The producer applying for payment under this subpart certifies the accuracy and truthfulness of the information provided in the application as well as any documentation filed with or in support of the application. All information is subject to verification or spot check by FSA at any time, either before or after payment is issued. Refusal to allow FSA or any agency of the USDA to verify any information provided will result in the participant's forfeiting eligibility for payment under this subpart. FSA may at any time, including before, during, or after processing and paying an application, require the producer to submit any additional information necessary to implement or determine any eligibility

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provision of this subpart. Furnishing information specified in this subpart is voluntary; however, FSA may choose not to act on the application or approve payment if the required information is not provided. Providing a false certification will result in ineligibility and can also be punishable by imprisonment, fines, and other penalties.

§ 760.1811 Required documentation and verification.

(a) If requested by FSA, an applicant must provide documentation that establishes the applicant's ownership share and value at risk in the crop.

(b) The applicant must provide acceptable documentation that is dated and contains all information required to substantiate the applicant's certification to the satisfaction of the FSA county committee. Verifiable documentation is required to substantiate the total dollar value loss and associated affected production, grading factors, and nutritional factors. FSA may verify the records with records on file at the warehouse, gin, or other entity that received or may have received the reported production. Reliable production records are required to substantiate the reported amount of affected production for applications not based on the total dollar value loss.

(c) To be considered acceptable, verifiable documentation for grain crops that were sold may come from any time between harvest and sale of the affected production, unless the FSA county committee determines the record is not representative of the condition within 30 days of harvest. For all other crops, the verifiable documentation must come from tests or analysis completed within 30 days of harvest, unless the FSA county committee determines that the record is representative of the condition of the affected production at time of harvest. Examples of acceptable records for purposes of this paragraph (c) include:

(1) Warehouse grading sheets;

(2) Settlement sheets;

(3) Sales receipts showing grade and price or disposition to secondary market due to quality; and

(4) Laboratory test results.

(d) For forage crops, producers must submit verifiable documentation showing the nutrient factors for the affected production. Producers must also submit verifiable documentation of the historical nutrient factors for the 3 preceding crop years if available. The nutrient factors that must be documented for a crop will determined by the FSA county committee based on the standard practice for the crop in that county.

(e) For all crops other than forage crops, producers must submit verifiable documentation of the total dollar value loss due to quality, if available, and verifiable documentation of grading factors due to quality.

(f) The participant is responsible for:

(1) Retaining, providing, and summarizing, at time of application and whenever required by FSA, the best available verifiable production records for the crop;

(2) Providing the information in a manner that can be easily understood by the FSA county committee; and

(3) Providing supporting documentation about the disaster event if the FSA county committee has reason to question the disaster event.

(e) Participants must provide all records for any production of a crop that is grown with an arrangement, agreement, or contract for guaranteed payment.

(f) Participants are required to retain documentation in support of their application for 3 years after the date of approval.

(g) Participants receiving QLA Program payments or any other person who furnishes such information to USDA must permit authorized representatives of USDA or the Government Accountability Office, during regular business hours, to enter the agricultural operation and to inspect, examine, and make copies of books, records, or other items for the purpose of confirming the accuracy of the information provided by the participant.

§ 760.1812 Payment calculation.

(a) Payments will be calculated separately for crops based on the crop type, intended use, certified organic or conventional status, county, and crop year.

(b) For forage crops with verifiable documentation of nutrient factors for the affected production and for the 3 preceding crop years, the payment will be equal to the producer's total affected production multiplied by the producer's verifiable percentage of loss, multiplied by the average market price, multiplied by 70 percent.

(c) For forage crops with verifiable documentation of nutrient factors for the affected production but not for the 3 preceding crop years, the payment will be equal to the producer's total affected production multiplied by the county average percentage of loss in paragraph (f) of this section, multiplied by the average market price, multiplied by 70 percent, multiplied by 50 percent.

(d) For crops other than forage with verifiable documentation of the total dollar value loss due to quality, the payment will be equal to the producer's total dollar value loss on the affected production, multiplied by 70 percent.

(e) For crops other than forage without verifiable documentation of the total dollar value loss but with verifiable documentation of grading factors, the payment will be equal to the producer's affected production multiplied by the county average loss per unit of measure in paragraph (g) of this section, multiplied by 70 percent, multiplied by 50 percent.

(f) The county average percentage of loss is the average percentage of loss from producers eligible for payment under paragraph (b) of this section if at least 5 producers in a county are eligible for payment for a crop under paragraph (b) of this section. If less than 5 producers in a county are eligible for payment for a crop under paragraph (b) of this section, the Deputy Administrator will:

(1) Determine a county average percentage of loss based on the best available data, including, but not limited to, evidence of losses in contiguous counties; or

(2) If a county average percentage of loss cannot be determined due to insufficient data, not issue payments to applicants under paragraph (c) of this section.

(g) The county average loss per unit of measure is based on the weighted average sales price from producers eligible for payment under paragraph (d) of this section if at least 5 producers in a county are eligible for payment for a crop under paragraph (d) of this section. If less than 5 producers are eligible for payment in a county under paragraph (d) of this section, the Deputy Administrator will:

(1) Determine a county average loss per unit of measure based on the best available data, including, but not limited to, evidence of losses in contiguous counties; or

(2) If a county average loss per unit of measure cannot be determined due to insufficient data, not issue payments to applicants under paragraph (e) of this section.

§ 760.1813 Availability of funds and timing of payments.

(a) Payments will be issued after the application period has ended and all applications have been reviewed by FSA.

(b) In the event that, within the limits of the funding made available by the Secretary, approval of eligible applications would result in payments

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in excess of the amount available, FSA will prorate payments by a national factor to reduce the payments to an amount that is less than available funds as determined by the Secretary.

(c) Applications and claims that are unpaid or prorated for any reason will not be carried forward for payment under other funds for later years or otherwise, but will be considered, as to any unpaid amount, void and nonpayable.

§ 760.1814 Requirement to purchase crop insurance or NAP coverage.

(a) For the first 2 consecutive crop years for which crop insurance or NAP coverage is available after the enrollment period for the QLA Program ends, a participant who receives payment under this subpart for a crop loss in a county must obtain:

(1) For an insurable crop, crop insurance with at least a 60 percent coverage level for that crop in that county; or

(2) For a NAP-eligible crop, NAP coverage with a coverage level of 60 percent.

(b) Participants who exceed the average adjusted gross income limitation for NAP payment eligibility [1] for the applicable crop year may meet the purchase requirement specified in paragraph (a)(2) of this section by purchasing Whole-Farm Revenue Protection crop insurance coverage, if eligible, or paying the NAP service fee and premium even though the participant will not be eligible to receive a NAP payment due to the average adjusted gross income limit.

(c) The final crop year to purchase crop insurance or NAP coverage to meet the requirements of paragraph (a) of this section is the 2023 crop year.

(d) A participant who obtained crop insurance or NAP coverage for the crop in accordance with the requirements for WHIP+ in § 760.1517 is considered to have met the requirement to purchase crop insurance or NAP coverage for the QLA Program.

(e) If a producer fails to obtain crop insurance or NAP coverage as required in this section, the producer must reimburse FSA for the full amount of QLA Program payment plus interest. A producer will only be considered to have obtained NAP coverage for the purposes of this section if the participant submitted a NAP application for coverage and paid the requisite NAP service fee and any applicable premium by the applicable deadline and completed all program requirements required under the coverage agreement, including filing an acreage report.

Richard Fordyce,

Administrator, Farm Service Agency.

[FR Doc. 2020–28914 Filed 1–5–21; 8:45 am]

BILLING CODE 3410–05–P

[1] See §§ 1400.500(a) and 1400.1(a)(4) of this title.

DEPARTMENT OF ENERGY

10 CFR Part 1061

RIN 1990–AA50

Procedures for the Issuance of Guidance Documents

AGENCY: Office of the General Counsel, Department of Energy.

ACTION: Final rule.

SUMMARY: The U.S. Department of Energy (DOE) publishes this final rule to establish procedures for the issuance of DOE guidance documents in accordance with Executive Order 13891. In this final rule, DOE establishes internal agency requirements for the contents of guidance documents, and procedures for providing notice of, and soliciting public comment on, certain guidance documents. This final rule also establishes procedures for the public to petition DOE to modify or withdraw guidance documents.

DATES: The effective date of this rule is February 5, 2021.

ADDRESSES: The docket for this rulemaking, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *https://www.regulations.gov*. All documents in the docket are listed in the *https://www.regulations.gov* index. However, not all documents listed in the index, such as those containing information that is exempt from public disclosure by law, may be publicly available. A link to the docket web page can be found at *https://www.regulations.gov/document?D=DOE-HQ-2020-0033-0001*. The docket web page explains how to access all documents, including public comments, in the docket.

FOR FURTHER INFORMATION CONTACT: Mr. Matthew Ring, U.S. Department of Energy, Office of the General Counsel, Forrestal Building, GC–33, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–2555, Email: *Guidance@hq.doe.gov*.

SUPPLEMENTARY INFORMATION:

I. Summary of Final Rule

In this final rule, DOE incorporates into the Code of Federal Regulations a new 10 CFR part 1061, which implements the requirements of Executive Order 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents.'' (84 FR 55235 (Oct. 15, 2019)) Among other things, Executive Order 13891 requires agencies to provide more transparency for their guidance documents by creating a searchable online database for current guidance documents,[1] and by establishing procedures to allow the public to comment on significant guidance documents and to petition the agency to withdraw or modify guidance documents.[2] Moreover, the Executive Order requires agencies to clearly state in their guidance documents that such guidance does not have the force and effect of law and is not legally binding, except as authorized by law or as incorporated into a contract. (84 FR 55235, 55237)

This final rule applies to all DOE guidance documents, as defined by Executive Order 13891, including the exceptions listed in section 2 of the Executive Order. This final rule also lists specific types of documents and communications that fall within the broader exceptions listed in the Executive Order (*e.g.,* speeches and presentations given by DOE officials, legal positions taken in litigation or enforcement actions). (See also OMB M–20–02, Guidance Implementing Executive Order 13891, Titled ''Promoting the Rule of Law Through Improved Agency Guidance Documents'' (Oct. 31, 2019), available at *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*). This final rule also adopts the same definition of ''significant guidance document'' as section 2 of Executive Order 13891.

In accordance with Executive Order 13891, this final rule requires that all DOE guidance documents clearly state that they do not have the force and effect of law and are not legally binding on the public, and that they are only intended to provide clarity to the public

[1] DOE's online database may be found at *energy.gov/guidance*.

[2] Executive Order 13891 defines ''significant guidance document'' as ''a guidance document that may reasonably be anticipated to: (i) Lead to an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (ii) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (iii) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (iv) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles of Executive Order 12866.'' (84 FR 55235, 55236)

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An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

Elizabeth K. Appel,

Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2021–00317 Filed 1–8–21; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–OIA–31249; PIN00IO14.XI0000]

U.S. Nominations to the World Heritage List; 15-Day Notice of Opportunity for Public Comment

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: This notice requests public comment on the next potential U.S. nominations from the U.S. World Heritage Tentative List (''Tentative List'') to the United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage List. The public may also make suggestions for future additions to the Tentative List. This notice complies with applicable World Heritage Program regulations.

DATES: Comments will be accepted on or before January 26, 2021.

ADDRESSES: You may submit comments by either of the following methods:

- *Mail to:* Jonathan Putnam, Office of International Affairs, National Park Service, 1849 C Street NW, Washington, DC 20240.
- *Email to: jonathan_putnam@nps.gov*. Phone: (202) 354–1809.

Comments will not be accepted in any way other than those specified above.

Information on the U.S. World Heritage program can be found at: *https://www.nps.gov/subjects/internationalcooperation/worldheritage.htm*.

To request a paper copy of the U.S Tentative List, please contact April Brooks, Office of International Affairs, National Park Service, 1849 C Street NW, Room 2415, Washington, DC 20240 (202) 354–1808, or Email: *april_brooks@nps.gov*.

FOR FURTHER INFORMATION CONTACT: Jonathan Putnam, (202) 354–1809.

For the World Heritage nomination format, see the World Heritage Centre website at: *http://whc.unesco.org/en/nominations*.

SUPPLEMENTARY INFORMATION:

Background

The World Heritage List is an international list of cultural and natural properties nominated by the signatories to the World Heritage Convention (1972), an international treaty for the preservation of natural and cultural heritage sites of global significance. U.S. participation and the roles of the Department of the Interior and the National Park Service are authorized by Title IV of the Historic Preservation Act Amendments of 1980 and conducted in accordance with 36 CFR part 73—World Heritage Convention. The National Park Service serves as the principal technical agency for the U.S. Government to the Convention.

A Tentative List is a national list of natural and cultural properties appearing to meet the World Heritage Committee eligibility criteria for nomination to the World Heritage List. It is a list of candidate sites which a country may consider for nomination within a given time period, but does not guarantee future nomination. The World Heritage Committee's *Operational Guidelines* ask participating nations to provide Tentative Lists, which aid in evaluating properties for the World Heritage List on a comparative international basis and help the Committee to schedule its work over the long term. A country cannot nominate a property unless it has been on its Tentative List for a minimum of a year. Countries also are limited at this time to nominating no more than one site in any given year.

Neither inclusion in the Tentative List nor inscription as a World Heritage Site imposes legal restrictions on owners or neighbors of sites, nor does it give the United Nations any management authority or ownership rights in U.S. World Heritage Sites, which continue to be subject to U.S. laws.

Current U.S. World Heritage Tentative List

The current U.S. World Heritage Tentative List includes the following properties:

Cultural Sites

Civil Rights Movement Sites, Alabama [other properties would be added for a complete nomination]

—Dexter Avenue King Memorial Baptist Church, Montgomery
—Bethel Baptist Church, Birmingham
—16th Street Baptist Church, Birmingham

Dayton Aviation Sites, Ohio

—Dayton Aviation Heritage National Historical Park

Hopewell Ceremonial Earthworks, Ohio

—Fort Ancient State Memorial, Warren County
—Hopewell Culture National Historical Park, near Chillicothe
—Newark Earthworks State Historic Site, Newark and Heath

Jefferson (Thomas) Buildings, Virginia (Proposed Jointly as an Extension to the World Heritage Listing of Monticello and the University of Virginia Historic District)

—Poplar Forest, Bedford County
—Virginia State Capitol, Richmond

Mount Vernon, Virginia

Serpent Mound, Ohio

Ellis Island, New Jersey and New York

Chicago Early Skyscrapers, Illinois, including: [Other Properties May Be Added in the Course of Developing a Nomination]

—Rookery
—Auditorium Building
—Monadnock Building
—Ludington Building
—Marquette Building
—Old Colony Building
—Schlesinger & Mayer (Carson, Pirie Scott) Department Store
—Second Leiter Building
—Fisher Building

Central Park, New York

Brooklyn Bridge, New York

Moravian Bethlehem District, Pennsylvania

Natural Sites

National Marine Sanctuary of American Samoa (Formerly Fagatele Bay National Marine Sanctuary, American Samoa)

Okefenokee National Wildlife Refuge, Georgia

Petrified Forest National Park, Arizona

White Sands National Monument, New Mexico

Marianas Trench National Monument, U.S. Territory, Commonwealth of the Northern Mariana Islands, Guam

Central California Current, California, Including

—Cordell Bank National Marine Sanctuary
—Monterey Bay National Marine Sanctuary
—Greater Farallones National Marine Sanctuary
—Farallon Islands National Wildlife Refuge

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NM-OTERO-21-0275-A-000086

—Point Reyes National Seashore
—Golden Gate National Recreation Area

Big Bend National Park, Texas

Pacific Remote Islands National Monument, U.S. Territorial Waters

Notes: (1) A nomination for the Hopewell Ceremonial Earthworks was authorized for preparation in May 2018 by the Department of the Interior and is now under development. (2) The Department has requested and is now awaiting advice from the International Council on Monuments and Sites (ICOMOS) on adding other properties to the proposal for the Civil Rights Movement Sites and its overall justification. (3) The government of the German state of Saxony is proposing an extension to the World Heritage listing of Christiansfeld, a Moravian Church Settlement in Denmark, that would include Herrnhut in Germany, the Moravian Bethlehem District in Bethlehem, Pennsylvania, and potentially other historic Moravian settlements in other countries.

Request for Public Comments

Comments on whether to authorize the preparation of a World Heritage nomination for any of the properties on the Tentative List should address the readiness and ability of the property owner(s) to prepare a satisfactory nomination document. Suggestions for additions to the Tentative List not previously submitted must address: (i) How the property(ies) would meet the World Heritage nomination criteria, requirements for authenticity, integrity, legal protection and management. Information on these criteria and requirements can be found on the website noted in the **FOR FURTHER INFORMATION CONTACT** section of this notice; and (ii) The U.S. legal prerequisites that include the agreement of all property owners to the nomination of their property, an official determination that the property is nationally significant (such as by designation as a National Historic or National Natural Landmark), and effective legal protection. All previous suggestions for the Tentative List made during previous comment periods or otherwise submitted since 2008, have been retained and considered and should not be resubmitted at this time.

Selection and Nomination

All public comments will be summarized and provided to Department of the Interior officials, who will obtain the advice of the Federal Interagency Panel for World Heritage before making any selection of properties for authorization to prepare a World Heritage nomination. The selection may include relevant factors, such as the likelihood of being able to complete a satisfactory nomination, and the fact that the United States is currently prohibited by law from providing any funding to UNESCO, including UNESCO and World Heritage member dues. Once authorized, the property owners may prepare a draft nomination.

The Department does not have a fixed schedule for completing or submitting World Heritage nominations. No more than one nomination from any country may be submitted per year, per the UNESCO World Heritage *Operational Guidelines.* Completed nominations, if approved by the Department for submission, may be submitted to the UNESCO World Heritage Centre by February 1 of any year.

Public Availability of Comments

All comments will be a matter of public record. Before including an address, phone number, email address, or other personal identifying information in a comment, members of the public should be aware that the entire comment—including personal identifying information—may be made public at any time. While commenters can request that personal identifying information be withheld from public review, it may not be possible to comply with this request.

Authority: 54 U.S.C. 307101; 36 CFR part 73.

George Wallace,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2021–00310 Filed 1–8–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#-31331; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before December 25, 2020, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by January 26, 2021.

ADDRESSES: Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line ''Public Comment on property or proposed district name, (County) State.'' If you have no access to email you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before December 25, 2020. Pursuant to Section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State or Tribal Historic Preservation Officers:

CALIFORNIA

Orange County

Johnson, Hugh Edgar, House, 444 W. Brookdale Pl., Fullerton, SG100006089

FLORIDA

Monroe County

Matecumbe Methodist Church Cemetery, 81801 Overseas Hwy., Islamorada, SG100006117

Pinellas County

House at 827 Mandalay Avenue, 827 Mandalay Ave., Clearwater, SG100006118

Sumter County

Wild Cow Prairie Cemetery, 5822 Cty. Rd. 673, Bushnell vicinity, SG100006119

Volusia County

Wright, James W., Building, 258 West Voorhis Ave., DeLand, SG100006120

Walton County

Herman Lodge No. 108 Free & Accepted Masons of Florida, 314 Madison St., Freeport, SG100006121

ILLINOIS

Cook County

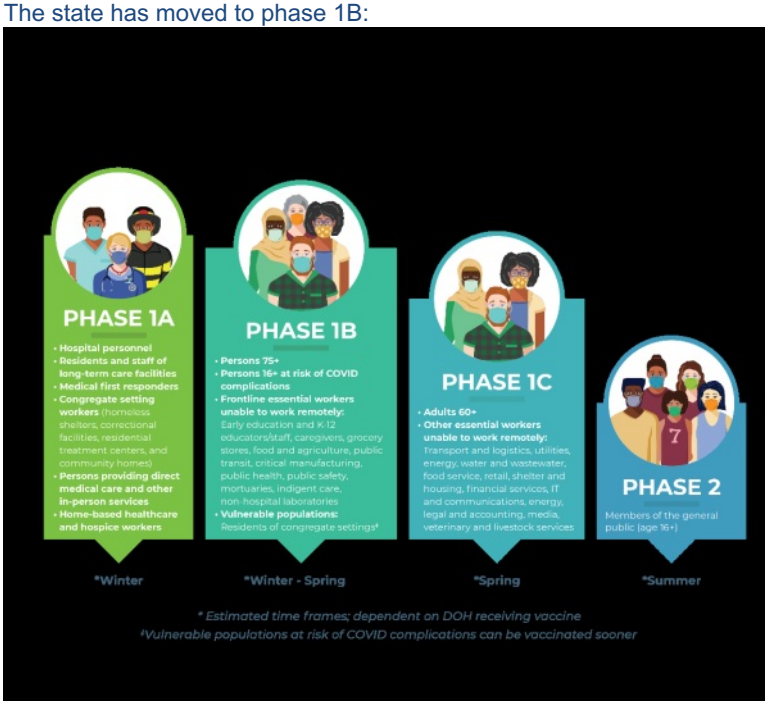
Irving, James B., House, 2771 Crawford Ave., Evanston, SG100006102

AMERICAN OVERSIGHT

From: Susan Mayes <smayes@nmcounties.org>
Sent: Tuesday, January 12, 2021 10:48 AM EST
To: Susan Mayes <smayes@nmcounties.org>
Subject: FW: Phase 1B Vaccine Activation Plan REVISED
Attachment(s): "2021.1.8 DOH Phase Guidance.pdf"

Hi all,
Please see the below message and the attached NM DOH Phase Guidance. This is a call for trusted voices in our counties to record a short PSA encouraging your communities to register for the vaccine. Please consider being the voice for your county. We are all in this together. Let's get the word out to help keep this virus at bay and start down the long road to go back to normal.

The state has moved to phase 1B:



Best,

Susan D. Mayes
505.820.8102 | Cell: 505.469.0042
NEW MEXICO COUNTIES 33 STRONG

From: Audrey Herrera-Castillo <audrey@momentumsantafe.com>

On Friday, January 8, 2021, the state of New Mexico moved into phase 1B distribution of the COVID-19 vaccine. Phase 1B include a***ll individuals 75 years of age and older, individuals 16 or older with underlying medical conditions that place them at greater risk from COVID-19, frontline essential workers who cannot work remotely, and vulnerable populations.***

The attached document has the most current information related to the distribution. Please share it with your members.

We are currently scheduling individuals to record a Trusted Voices PSA via a short Zoom session. We are searching for representation from rural and urban communities around the state. The nomination portal remains open, Step Up to the Mic. Also, individuals may schedule their session immediately by clicking on this link (https://momentumsantafe.as.me/TrustedVoices).

Please let me know if you have any questions.
Thank you!

Audrey,
Trusted Voices Manager

Audrey Herrera-Castillo
Momentum Santa Fe
505-670-0115
momentumsantafe.com

AMERICAN OVERSIGHT

State of New Mexico COVID-19 Vaccine Allocation Plan
Phases 1A, 1B, 1C, and 2

Updated January 8, 2021

I. BACKGROUND

New Mexico has prioritized vaccine allocation consistent with the Centers for Disease Control and Prevention (CDC) phases,[1] adapting those phases where necessary to protect New Mexican residents as effectively as possible. The state's vaccination distribution plan aims to a) ensure the continuing functioning of the health care system and essential services in the community and b) protect people at increased risk for severe COVID-19-related illness.

During Phase 1 of COVID-19 vaccine distribution in the United States, supplies will be limited. The federal government is distributing COVID-19 vaccine in weekly allotments to states over the next 3-6 months. Those allotments are insufficient to vaccinate all New Mexicans. In Phase 2, every New Mexico resident who wishes to be vaccinated will have a chance to receive the vaccine.

In coordination with key stakeholders, NMDOH is creating a broad vaccine administration network to ensure sustainable and equitable vaccine access across New Mexico. This network includes private healthcare providers, pharmacies, clinics, hospitals, community service organizations, and mass vaccination events.

The creation of the current protocol has also included input from a team that is diverse by race, ethnicity, language, gender, professional training, clinical settings, life experiences and informed by health equity and racial justice principles as well as the Framework on Equitable Distribution of COVID Vaccine.[2] We recognize that vaccination success will depend on engaging local community leaders and groups as primary carriers of information and building trust to overcome lack of media access, economic isolation and bureaucratic barriers.

As recommended and defined by the CDC,[3] the first doses of COVID-19 vaccines should be offered to healthcare personnel and residents of long-term care facilities (Phase 1A). Subsequently, vaccine should be offered to those categorized in sequential phases (1B and 1C). As more vaccine becomes available, vaccination across multiple phases can occur simultaneously.[4]

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[1] CDC recommendations are based on input from the Advisory Committee on Immunization Practices (ACIP). This federal advisory committee is comprised of medical and public health experts who develop recommendations on the use of vaccines in the United States.

[2] National Academies of Sciences, Engineering, and Medicine. 2020. *Framework for equitable allocation of COVID-19 vaccine*. Washington, DC: The National Academies Press. https://doi.org/10.17226/25917.

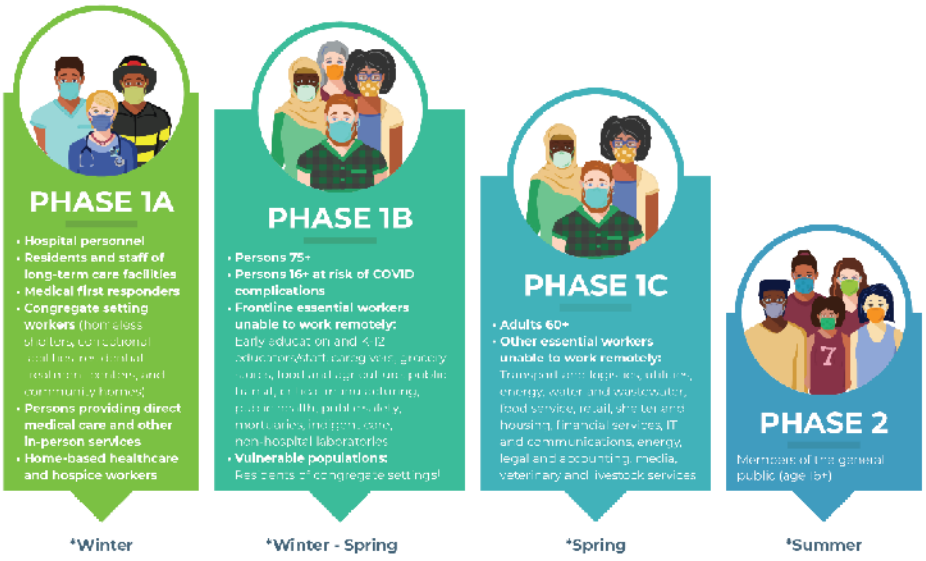
[3] When Vaccine is Limited, Who Gets Vaccinated First? | CDC

[4] While no data currently exists addressing the safety and efficacy of Pfizer's or Moderna's COVID-19 vaccines in pregnant women, the CDC has recommended that pregnant women may be offered the vaccine within the phase they fit in, following consultation with their medical provider. Additionally, none of the vaccines currently approved for Emergency Use Authorization have been tested on or approved for use in children younger than 16. (Pfizer can be administered to

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Vaccine availability will initially be limited and therefore must be distributed in a phased approach. These phases are as follows.

> ***<u>Phase 1A</u>: All persons serving in health care settings who have direct or indirect exposure to patients or infectious materials and are unable to work from home, as well as residents of long-term care facilities. Also includes workers in congregate settings.***
>
> ***<u>Phase 1B:</u> All individuals 75 years of age and older, individuals 16 or older with underlying medical conditions that place them at greater risk from COVID-19, frontline essential workers[5] who cannot work remotely, and vulnerable populations.***
>
> ***<u>Phase 1C:</u> Includes persons 60 years of age or older, essential workers[6] who cannot work remotely.***
>
> ***<u>Phase 2:</u> All persons 16 years of age or older.***



** Estimated time frames; dependent on DOH receiving vaccine*
[1]Vulnerable populations at risk of COVID complications can be vaccinated sooner

persons 16 years of age or older; Moderna can be administered to persons 18 years of age or older.) *These guidelines may change as more information on vaccine effectiveness and additional vaccines become available.*

[5] Frontline essential workers are employed in sectors essential to the functioning of society and are at substantially higher risk of exposure to SARS-CoV-2.

[6] Essential workers are employed in sectors essential to the functioning of society.

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II. PHASED ALLOCATION OF COVID-19 VACCINES

PHASE 1A: CONSISTS OF HEALTHCARE PERSONNEL, STAFF AND RESIDENTS OF LONG-TERM CARE FACILITIES, STAFF OF OTHER CONGREGATE CARE FACILITIES, AND OTHER PERSONNEL WITH DIRECT EXPOSURE TO INFECTIOUS PEOPLE OR MATERIALS

In Phase 1A, workers who provide healthcare and other direct ***in-person*** services to patients, persons with disabilities, and persons living in congregate care settings who are at risk of exposure to the virus or who handle infectious materials will be vaccinated. A non-exhaustive list of individuals are eligible for vaccine in Phase 1A include the following. (For a complete list of individuals falling within Phase 1A, see Appendix A.)

- All hospital personnel
- Residents of nursing homes and long-term care facilities
- Medical first responders
- Congregate setting healthcare workers and those workers in congregate settings who may have close contact with infected persons
- Persons providing direct medical care and other in person services in the community
- Home-based healthcare and hospice workers

PHASE 1B: PERSONS 75 YEARS OR OLDER, 16 YEARS OR OLDER WITH AT LEAST ONE CHRONIC CONDITION, FRONTLINE ESSENTIAL WORKERS IN CRITICAL INFRASTRUCTURE WORKPLACES, VULNERABLE POPULATIONS

Phase 1B will be administered to groups in the following sequence:

- Persons 75 years or older
- Persons 16 years or older with at least one of chronic medical conditions identified below
- Frontline essential workers as identified below
- Vulnerable populations

A. Persons 75 years of age or older: This group faces the highest risk of hospitalization, morbidity and mortality from COVID-19. Vaccine scheduling appointments will be made available to this group as soon as Phase 1B begins; it may take several weeks for all eligible seniors to receive a vaccine.

B. *Persons 16 years of age or older with at least one of the following conditions:*

Conditions with increased risk of severe illness:[7]

- Cancer
- Chronic kidney disease
- COPD (chronic obstructive pulmonary disease), pulmonary fibrosis, cystic fibrosis
- Down syndrome
- Heart conditions (heart failure, hypertension, coronary artery disease or cardiomyopathies)
- Immunocompromised state from solid organ transplant
- Obesity (BMI>=40)
- Pregnancy
- Sickle cell disease
- Type 2 Diabetes

Conditions that might involve increased risk:

- Asthma
- Cerebrovascular disease (previous stroke, TIA)
- Hypertension or high blood pressure
- Immunocompromised state from blood or bone marrow transplant, immune deficiencies, HIV, use of

[7] CDC. People with certain medical conditions. https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html

AMERICAN OVERSIGHT
NM-OTERO-21-0275-A-000091

corticosteroids or use of other immune-weakening medicines
- Neurologic conditions such as dementia
- Liver disease
- Overweight (BMI >25 but <30)
- Pulmonary fibrosis (having damaged or scarred lung tissues)
- Thalassemia
- Type 1 diabetes

C. Frontline essential workers*:* Workers in essential and other industries that are part of America's critical infrastructure.[8] Many of these workers operate in roles that require significant person-to-person interactions and place them at greater risk of COVID-19 infection. Vaccine access is critical not only to protect these workers but also to maintain the essential services they provide in New Mexico.

Because the number of people in Phase 1B is much larger than available supply, not all frontline essential workers can be vaccinated simultaneously. Frontline essential workers will be vaccinated in the following order.

- Family home caregivers, child care workers, (paid or unpaid) of persons who care for those with high-risk conditions
- Early education and K-12 educators/staff and other personnel in educational institutions needed on-site to support in-person learning
- Grocery store workers
    - Personnel at grocery stores, supermarkets, food banks, farmers' markets and vendors who sell food, convenience stores, and other businesses that generate the majority of their revenue from the sale of canned food, dry goods, fresh fruits and vegetables, fresh meats, fish, and poultry, and any other household consumer products, as well as pet food, feed, and other animal supplies
- Food and agriculture workers, including farms, ranches and other food cultivation operations
- Food processing or packaging operations
- Public transit workers
- Critical manufacturing workers, including:
    - Medical supplies and equipment, manufacturing agents, chemicals, fertilizer, pharmaceuticals, sanitary products, household paper products, microelectronics/semi-conductors, primary metals, electrical equipment, appliances and components, and transportation equipment
- Adult and child protective services workers
- Public health, environmental, occupational health and other workers **who perform in-person** inspections to promote health and safety of licensed and unlicensed facilities and operations
- Mortuary, cremation and cemetery service workers
- Court personnel; elected and appointed officials in government **who are unable to work remotely and/or telework**
- Personnel who provide in-person services necessary to maintain the safety and sanitation of residences or essential businesses including security services, towing services, custodial services, plumbers, electricians, and other skilled trades
- Hardware and construction stores
- Laundromats and dry cleaner services
- Workers not covered in Phase 1A in research centers and laboratories **who are unable to work remotely and/or telework**

[8] https://www.cisa.gov/sites/default/files/publications/Version_3.0_CISA_Guidance_on_Essential_Critical_Infrastructure_Workers_1.pdf

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- Workers and volunteers who provide in-person services to indigent or needy populations
- Laboratories and defense and national security-related operations supporting the United States government, or contractors to the United States government or any federal entity **who are unable to work remotely and/or telework**
- Emergency Operations Center (EOC) personnel; PPE and vaccine warehouse workers

D. Populations in congregate settings: Persons in congregate settings who have not been vaccinated as part of other phases will be identified as a vulnerable population. Populations in congregate settings include those persons unable to self-isolate or stay six feet apart from each other, which can result in increased spread of COVID-19 within and outside congregate settings. Congregate settings include homeless shelters, residential treatment centers, community homes, corrections or detention facilities, and juvenile justice facilities.

PHASE 1C: AGE 60 YEARS OR OLDER, OTHER ESSENTIAL WORKERS

Below is the sequence for Phase 1C vaccine distribution.

A. Persons 60 years or older

B. Essential workers not included in Phase 1B and who are unable to work remotely and/or telework:
Workers falling within this category will be vaccinated in the following order.

- Businesses that store, transport or deliver goods or services directly to residences, retailers, government institutions, or essential businesses
    - Automobile repair facilities, bike repair facilities, and retailers who generate the majority of their revenue from the sale of automobile or bike repair products
    - Airlines and airport operations
    - Taxis and other private transportation providers
    - Transportation network companies
- Utilities, including contractors, suppliers, and supportive operations, engaged in power generation, fuel supply and transmission, water and wastewater supply
- Food service personnel not included in Phase 1B, including restaurant and quick service food operations and food prep centers
- Consumer goods, retail
- Finance/banking staff, including banks, credit unions, insurance providers, payroll services, brokerage services and investment management firms
- Information technology and communications personnel
- Energy industry personnel
- Legal and accounting personnel
- Media personnel
- Veterinary and livestock services, animal shelters and facilities providing pet adoption, grooming, daycare or boarding services

PHASE 2: ALL PERSONS 16 YEARS OF AGE OR OLDER NOT RECOMMENDED FOR VACCINATION IN AN EARLIER PHASE

Note: Only the Pfizer vaccine is authorized for persons 16 or 17 years of age at this time.

Note: Within a given phase, invitations for New Mexicans to schedule vaccine appointments will be made at random.

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VERIFICATION

Verification of Employment: Workers in each category will be required to verify their employment through appropriate means. Additionally, all workers must provide a sworn attestation that the information they provide is true and accurate.

Verification of Qualifying Conditions: Individuals should be prepared to verify medically qualifying conditions. To do so, individuals may provide a note from a provider, emergency department or hospital discharge summary, prescription bottle, prescription, or other form of validation.

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Appendix A

Occupation Category: Healthcare Worker
All hospital personnel with direct patient care ● A wide array of medical house staff (i.e., interns, residents, fellows), nurses, nurses' aides, physical therapists, physicians, physicians' assistants, respiratory therapists, speech pathologists, students (medical, nursing, PT, RT), midwives, nutritionists, CRNAs, audiology, interpreters, blood donation workers, podiatrists, laboratorians, organ donation procurement workers ● Staff who provide cleaning, food and other services to support patients ● Emergency room staff ● Ancillary staff directly interacting with patients or infectious materials: laboratory personnel, phlebotomists, radiology technicians
Persons providing direct medical care or other in-person services in the following areas: ● Primary care, family practice, behavioral health, family planning, and other specialty practices ● Dialysis and infusion centers ● Inpatient or outpatient medical settings ● Public health offices ● Imaging centers ● Dental ● Optometry and ophthalmology ● Rehabilitation services, including physical therapy, occupational therapy, vocational rehabilitation and independent living ● Community health workers (CHWs) who provide in-person services
Residents and staff in nursing homes and other long-term care facilities
Pharmacists and pharmacy technicians who interact with patients
Home health and hospice workers including home health aides, caregivers, and companions
Workers with patients undergoing chemotherapy
Autopsy room staff, coroners, embalmers, and funeral home staff at risk of exposure to bodily fluids
COVID-19 testing site staff and those administering COVID-19 vaccine
Support service providers for persons with disabilities and persons providing in-person interpretation services
Occupation Category: First Responder
Medical first responders (EMS, fire department, and law enforcement personnel who provide emergency medical services and transportation) and hospital transport personnel
Occupation Category: Congregate Care
Persons working in congregate settings (including correctional facilities, juvenile justice facilities, homeless shelters, residential treatment centers, or community homes)

From: Monica Steeby <m.steeby@ocedc.com>
Sent: Friday, January 08, 2021 2:39 PM EST
To: undisclosed-recipients:
Subject: Fwd: EDD Resource Wrap Up

Hello,

Please see the newest edition of NM EDD's Weekly Resource Round-up for the new year.

Have a great weekend!

Monica

Gov. Michelle Lujan Grisham
Cabinet Secretary Alicia J. Keyes
Deputy Secretary Jon Clark

NEW MEXICO ECONOMIC DEVELOPMENT DEPARTMENT

WEEKLY RESOURCE WRAP-UP

January 8, 2021

Visit our website | **View past newsletters** | **Join our email list**

UPCOMING WEBINARS AND EVENTS

Importing/Exporting Overview
January 20 at 11:30 am
Register

WESST Farmington Training Conversations and Connections: Virtual Networking Meeting
February 17 at 2 pm
Register

Local On Demand SCORE Webinars:

- PPP Loan Forgiveness Application Requirements
- Economic Injury Disaster Loan

ARTICLES/LINKS

COVID-19 Recovery Resources

NEW! Second Round of Stimulus Checks Distributed

Eligible recipients will receive up to $600 for individuals, $1,200 for married couples, and $600 for each qualifying child.

Learn More

NEW! EIDL Deadline

The U.S. Small Business Administration announced that the deadline to apply for the Economic Injury Disaster Loan (EIDL) program for the COVID-19 Pandemic disaster declaration is extended to Dec. 31, 2021.

Learn More

NEW! Fifth COVID-19 Relief Bill Enacted

The package includes about $900 billion in additional COVID-19 relief, a yearend omnibus appropriations package, and a variety of other legislation.

Learn More

AMERICAN OVERSIGHT

EDD Sets Groundwork For Economic Recovery Across State

EDD Announces Call for RFPs

SpinLaunch expands New Mexico test site

One-on-One with Axie Navas

Another Round of PPP Loans Approved by Congress, With Yet Additional Changes to the Program

Expanding Educational Opportunity Through School Choice

CPD Memo: Availability of Additional Waivers for CPD Grant Programs to Prevent the Spread of COVID-19 and Mitigate Economic Impacts Caused by COVID-19 (Issued December 30, 2020)

WCB Seeks Comment on Emergency Broadband Connectivity Fund Assistance

Unemployment Insurance Program Letter No. 09-21

Minority-Owned Companies Waited Months for Loans, Data Shows

Economic development work continues – even in 2020

About half of applicants get New Mexico virus relief grants

State approves 6,500 small business grants

UPDATE! The Small Business CARES Relief Grant application is now closed

Grants were awarded to 6,642 businesses throughout New Mexico, with 60% of the funds in urban areas and 40% of the funds in rural areas. Businesses receiving grants include restaurants, hotels, retail stores, nonprofit organizations, manufacturing companies, accountants, and many more.

Learn More

UPDATE! New PPP Guidance

The IRS clarified its guidance on the tax treatment of expenses paid with PPP loan proceeds that are not forgiven by the end of the year the loan was received. Taxpayers that reasonably expect, but have not yet received, PPP loan forgiveness are not allowed an income tax deduction for expenses paid with the loan proceeds (see Revenue Ruling 2020-27).

Learn More

COMCAST RISE

Qualifying businesses will receive marketing consultations, media placements, commercial creative production services, and/or technology services from Effectv and Comcast Business. BIPOC small business owners may apply.

Learn More

Community Fund: Emergency Food Distribution

County and Tribal Managers can apply for communities in need of emergency food distribution due to COVID or a lockdown in response to COVID.

Learn More

TRIBAL RESOURCE: Chamiza Foundation Covid-19 Emergency Relief Fund

The Chamiza Foundation is accepting applications from Pueblo Indian organizations and organizations serving Pueblo communities in New Mexico that are responding to direct threats from COVID-19. The grant awards will range from $3,000 to $12,000. Specific areas of interest include food, medical supplies, and personal items; water; community relief and recovery needs; and internet access and connectivity. **Deadlines: February 12 and May 7.**

Learn More

Restoration and Resilience COVID Recovery Fund

The Restoration and Resilience COVID Recovery Fund is providing grants to support public lands, including parks, nature areas, and other green spaces, that have been impacted by increased use during the COVID-19 pandemic. The focus is on supporting agencies and organizations responsible for maintaining public lands by distributing resources and mobilizing volunteers to help keep up with increased human presence in these delicate ecosystems. Grants of up to $2,500 will be awarded. Nonprofit organizations, state or federal government agencies, federally recognized tribes and local governments, and educational institutions are eligible to apply. **Deadlines: February 1, April 1, and June 1.**

Learn More

Bloomberg Philanthropies - Coronavirus Local Response Initiative

Bloomberg Philanthropies is helping cities and states combat the devastating impact of COVID-19 on the wellbeing of residents and local economies. The fund will provide grants and interest-free loans, with priority given to direct social service providers.

Learn More

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Mission Asset Fund: Immigrant Families Fund

The Immigrant Families Fund provides grants of $500 to immigrants to help cover whatever is most pressing in their lives. Applicants must have experienced an income disruption due to COVID-19, earn less than $99,000 annually or a $198,000 household income, and not be eligible to receive a CARES Recovery Rebate (coronavirus stimulus check) from the federal government.

Learn More

EDD Highlighted Announcement: Call for RFPs and Job Openings at EDD

EDD is soliciting two Requests for Proposals (RFPs), regarding a 20-Year Statewide Strategic Plan, and offering three new job positions, funded through EDA's CARES Act.

RFPs:

- **Economic Development Data Collection and Coordination**
- **Economic Development Industry Strategies**

Proposals are due Jan. 18, 2021
View the RFPs online:
www.EDD.NewMexico.gov

View the RFP recorded information session here.

Job Openings:

EDD is hiring for three positions. Deadline to apply: **Monday, Jan. 11.**

- **Finance Program Specialist**, Job ID 11424 (Santa Fe)
- **Program Development Specialist**, Job ID 11425 (Santa Fe)
- **Statewide Disaster Recovery** Coordinator, Job ID 11423 (Albuquerque)

Apply on the New Mexico State Personnel Office website.

Additional Business Resources

Small Business Innovation Research (SBIR) Program

The SBIR Program is seeking highly innovative products with excellent commercial potential. All SBIR proposals must directly benefit the NOAA mission, but should also be responsive to the greater market demands in order to be successful. **Deadline: January 13.**

Learn More

Community Health Access and Rural Transformation: CHART

CHART aims to ensure Rural America has access to high quality, affordable health care by offering new payment models. The CHART Model will include two tracks: Community Transformation Track; Accountable Care Organization (ACO) Transformation Track.

Learn More

SBA Express Bridge Loans

This pilot program allows SBA Express Lenders the authority to deliver expedited SBA-guaranteed financing on an emergency basis for disaster-related purposes to eligible small businesses, while the small businesses apply for and await a decision on the EIDL.

Learn More

Albuquerque's Minority Business Development Center

Minority business owners looking to build their businesses have a new resource in Albuquerque's Minority Business Development Center. The facility will provide access to capital, opportunity sourcing, help with certifications and registrations, strategic planning consultation, and other services.

Learn More

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Updated Interest Rates for the 504 Loan Program

The U.S. Small Business Administration announced the updated interest rates for the 504 Loan Program offered by Certified Development Companies (CDC). The program now allows for 10, 20, and 25-year interest rates at 2.231%, 2.364%, and 2.399%, respectively. Small businesses can now apply for a 504 loan at these low-interest rates.

Learn More

Additional Community Resources

NEW! Snapdragon Book Foundation

The Snapdragon Book Foundation seeks to promote children's literacy by providing support to school libraries serving disadvantaged children. Grants are awarded to public, private, and experimental preK-12 schools. Grants typically range from $2,500 to $10,000. **Deadline: February 14.**

Learn More

NEW! Opioid Affected Youth Initiative

The Opioid Affected Youth Initiative supports programs and strategies that identify, respond to, treat, and support children, youth, and families impacted by the opioid epidemic. The program seeks to develop a data-driven, coordinated response to opioid abuse-related challenges that impact youth and community safety. **Grants.gov deadline: February 8; JustGrants deadline: February 22.**

Learn More

NEW! The People, Prosperity, and the Planet (P3) Award Program

The P3 Award Program provides support to research, develop, design, and demonstrate solutions to real world challenges. The program highlights the use of scientific principles in creating innovative technology-based projects that achieve the mutual goals of improved quality of life, economic prosperity, and protection of the planet. Research areas include air quality, safe and sustainable water resources, sustainable and healthy communities, and chemical safety. **Deadline: February 9.**

Learn More

Elevate Initiative

Up to ten grants between $100,000 and $300,000 will be awarded to nonprofit organizations that demonstrate a strong commitment to intersectional racial justice and an ability to address economic disparities that affect Black and Brown workers as the result of structural racism. Examples include emerging industry access, systems change initiatives, and workforce development programs. Preference will be given to organizations with people of color in leadership positions. **Application deadline: January 11; invited full proposals deadline: February 12.**

Learn More

The Skatepark Project

The Skatepark Project is dedicated to promoting the construction of new, quality skateparks located in low-income communities. The Foundation primarily supports projects that can demonstrate a strong grassroots commitment, particularly in the form of planning and fundraising by local skateboarders and other community groups. Priority is given to projects that are designed and built from concrete by experienced skatepark contractors and include local skaters in the planning, fundraising, and design process. Grants of $1,000 to $25,000 are provided to nonprofit organizations and state or local agencies, including public school systems and public projects. Requests are reviewed two times per year. **Upcoming deadline: January 27.**

Learn More

The Terri Lynne Lokoff Teacher Awards Program

The Terri Lynne Lokoff Teacher Awards program, administered by First Up, acknowledges the critical role of childcare teachers in providing quality early care and education. Applicants must be full-time childcare teachers employed in a home, group, or center-based program for a minimum of three years and meet other eligibility guidelines. Fifty selected teachers will each receive a $1,000 grant. Of the 50 teachers, one is selected to receive the Helene Marks Award, which includes an additional $1,000 grant. **Applications must be postmarked by January 29.**

Learn More

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The Women and Minorities in Science, Technology, Engineering, and Mathematics Fields Program (WAMS)

WAMS supports research, education and teaching, and extension projects that increase participation by women and underrepresented minorities from rural areas in STEM. The program addresses educational needs within broadly defined areas of food, agriculture, natural resources, and human sciences. Projects should work to improve the economic health and viability of rural communities by developing research and extension initiatives that focus on new and emerging employment opportunities in STEM occupations. Projects that contribute to the economic viability of rural communities are also encouraged. **Deadline: January 21.**

Learn More

Save America's Treasures Grants Program

The Save America's Treasures Grants program helps preserve nationally significant historic properties and collections that convey our nation's rich heritage to future generations. The program has separate applications for preservation projects (for properties listed on the National Register of Historic Places for national significance or listed as a National Historic Landmark) and for projects involving collections (including artifacts, museum collections, documents, sculptures, and other works of art). **Deadline: January 26.**

Learn More

NPS Rivers, Trails, and Conservation Assistance Program

The National Park Service is accepting applications for technical assistance to design trails and parks, conserve and improve access to rivers, protect special places, and create recreation opportunities. **Deadline: March 1.**

Learn More

Equitable Path Forward

Equitable Path Forward is a five-year, $3.5 billion, nationwide initiative to help dismantle the deeply-rooted legacy of racism in housing – the types of homes that are built, where they're built, who builds them, and the wealth that is generated from them.

Learn More

YouthBuild

Grants will be awarded through a competitive process to organizations providing pre-apprenticeship services that support education, occupational skills training, and employment services to at-risk youth, ages 16 to 24, while performing meaningful work and service to their communities. Eligible applicants are public or private non-profit agencies that have previously served disadvantaged youth in a YouthBuild or other similar program. **Deadline: February 2.**

Learn More

Bezos Scholars Program

Guided by the belief that all young people deserve the opportunity to reach their full potential and meaningfully contribute to society, the program invests in the science of learning and experiences young people need from birth through high school.

Learn More

African American Cultural Heritage Action Fund

The National Trust for Historic Preservation's African American Cultural Heritage Action Fund is designed to advance ongoing preservation activities for historic places such as sites, museums, and landscapes representing African American cultural heritage. The Fund supports work in four primary areas: Capital Projects, Organizational Capacity Building, Project Planning, and Programming and Interpretation. Grants range from $50,000 to $150,000. **The deadline for letters of intent is January 15; invited applications will be due May 3.**

Learn More

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Looking Out Foundation

The Looking Out Foundation is dedicated to empowering those without a voice. The Foundation provides support to nonprofit organizations nationwide that address the ever-changing needs of the human race. Program interests include disadvantaged youth; health; community development; women/gender equality; the environment, including environmental education; the arts; human and civil rights; and the hungry and the homeless. Grants ranging between $1,000 and $5,000 are provided. **Deadlines: February 1 and August 1, annually.**

Learn More

The Nursing Workforce Diversity Program

The goal of the Nursing Workforce Diversity Program is to expand and support a nursing workforce that includes individuals who are from disadvantaged backgrounds and who are equipped with the tools to provide quality, culturally-aligned care to rural and underserved communities in need. **Deadline: January 19.**

Learn More

Fellowships for U.S. Classroom Teachers

Teachers are invited to join a community of educators who are transforming what learning looks like, charting a new course for their students, and revolutionizing their teaching by applying for a life- and career-changing Fund for Teachers fellowship. The Fund awards individual fellowships (funding limit of $5,000) and team fellowships (funding limit of $10,000) to pre-K-12 classroom teachers to immerse themselves in their fields of study. Applicants are encouraged to focus on topics and issues most directly facing our nation at this time such as equity, diversity, inclusion, climate change, and civic engagement. Teachers must have a minimum of three years of experience and be full-time teachers spending at least 50% of their time in the classroom. **Deadline: January 21.**

Learn More

Small Community Air Service Development Program

The Department of Transportation provides funding to help small communities address air service and airfare issues through revenue guarantees, financial assistance for marketing programs, start-up costs and studies, among others.

Learn More

PeopleForBikes Community Grant Program

The PeopleForBikes Community Grant Program offers funding for important and influential projects that build momentum for bicycling. Grants of up to $10,000 are provided for bicycle infrastructure projects and targeted advocacy initiatives that make it easier and safer for people of all ages and abilities to ride. Eligible applicants include nonprofit organizations with a focus on bicycling, active transportation, or community development; city or county agencies or departments; and state or federal agencies working locally. **Letters of interest for the Spring 2021 grant cycle will be accepted through January 22; full applications are due April 9.**

Learn More

The Laura Bush Foundation for America's Libraries

The Laura Bush Foundation for America's Libraries provides funds to the country's neediest schools so that they can extend, update, and diversify the book and print collections in their libraries with the goal of encouraging students to develop a love of reading and learning. Public, public charter, private, parochial, city, state, county, and reservation schools are eligible to apply. **Deadline: January 29.**

Learn More

Five Star and Urban Waters Restoration Grant Program

The Five Star and Urban Waters Restoration Grant Program seeks to develop community capacity to sustain local natural resources for future generations by providing financial assistance to diverse local partnerships focused on improving water quality, watersheds, and the species and habitats they support. Projects should increase access to the benefits of nature, reduce the impact of environmental hazards, and engage local communities, particularly underserved communities, in project planning, outreach, and implementation. **Deadline: January 28.**

Learn More

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Webinar Recordings

Dispatches from New Mexico: Avalanche Safety Education & Resources (12/17/20)

EDD Miniseries for Business Owners of Color Business Resources (12/11/20)

SBA Surety Bond Program Overview (12/10/20)

Southwestern New Mexico Business Finance Fair (12/9/20)

Overview Small Business CARES Relief Grant Program (12/3/20)

EDD Miniseries for Business Owners of Color - CDFI's & CU's (11/20/20)

Council of Government Overview: How are COGs helping in COVID 19 Recovery and Strategic Planning (11/18/20)

To see a full list of upcoming webinars and links to more previously recorded webinars:
EDD Finance Dept Webinars and Other COVID-19 Resources
NM MainStreet Webinars and Other COVID-19 Resources

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AMERICAN OVERSIGHT

From: Naomi Christensen <ngchris@windstream.net>
Sent: Friday, January 08, 2021 9:17 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Going to DC again?

Dear Couy,

I heard that you were in DC and saw what happened there and that you have been investigated by the (absent) FBI for something you said.

How ironic that the FBI is involved now with someone that hasn't committed any crime and probably misinterpreted your words. But the FBI have been AWOL with the fraud that occurred in the election.

I applaud your heroism in going to support Preseident Trump and if you are planning to go to the inauguration of the "ilegitimate president" Burden, I would like to accompany you or anyone else that you know might be going. I would have liked to go but the logistics were a problem for me. I want to support the President and let the Burden know that he is NOT my president.

Thanks for your time and attention.

An old ex-GOP woman in Rio Arriba County whose Dad and Granddad were ranchers in Northern NM.

Naomi Christensen

AMERICAN OVERSIGHT

From: Joy and Other Things <simdrew99@gmail.com>
Sent: Thursday, January 14, 2021 7:11 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: I don't recommend it

Dude the DHS is gonna be on your ass if you try to go up to DC with *two* guns like you said you would. I'm just a concerned citizen but i really think you should probably reconsider if you want to be associated with what is going to happen at the capital on the 20th. If you can spare the time i'd recommend taking a step back from everything and really *really* critically thinking about what you're going to do. If the trump boat does end up sinking (which looks probable) you will be caught on the titanic wave of backlash. I can all but guarantee that more reasonable republicans will back away from his form of crass policy after the recent election results. Although I'm just a citizen even i understand that the optics of your decisions will be poor if you go to DC. The only reason i am trying to break through to you is that your response to a more divided government during the Otero County Special Meeting on January 14th was quite appropriate to Mr.Lee's remarks.

Please reconsider.

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From: Paul Akmajian <akmajian@gmail.com>
Sent: Friday, January 08, 2021 6:19 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: In remembrance

Hey Couy,

Just curious, will you also be attending the funeral for Brian Sicknick, the Capitol Police officer (and by the way, a supporter of Pres. Trump), who WAS BEATEN TO DEATH WITH A FIRE EXTINGUISHER by the disgusting pro-Trump thugs who assaulted the capitol?=

AMERICAN OVERSIGHT

From: Rachel Knapp <Rachel.Knapp@krqe.com>
Sent: Friday, January 08, 2021 4:13 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: KRQE interview

Hi Commissioner Griffin,

This is Rachel Knapp with KRQE. I tried calling you but the call went directly to voicemail and I couldn't leave a voicemail because the machine said that one wasn't set up.

I'm looking to do an interview with you about some comments you made on the Cowboys For Trump Facebook page.

Deadline is 6pm tonight. Send me an email when you can.

Rachel Knapp
Reporter
KRQE News 13 & Fox New Mexico
www.krqe.com
www.foxnewmexico.com



AMERICAN OVERSIGHT

From: Mary Lou Cooper <mcooper@ksfr.org>
Sent: Wednesday, January 13, 2021 11:30 AM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: KSFR public radio Santa Fe request for interview

Good morning.

I am a reporter with the local Santa Fe public radio station KSFR.

I would like to speak to you regarding Cowboys for Trump protests at the state capitol in the coming days leading up to January 20.

It would be a phone-to-phone interview, and I would like to do it today or Thursday if possible.

Thanks for considering my request,

Mary Lou Cooper
KSFR public radio Santa Fe
mcooper@ksfr.org

AMERICAN OVERSIGHT

From: meshleman@co.otero.nm.us <meshleman@co.otero.nm.us>
Sent: Monday, January 04, 2021 12:22 PM EST
To: Couy Griffin <cgriffin@co.otero.nm.us>; Gerald Matherly <gmatherly@co.otero.nm.us>; Vickie Pruiett Marquardt <vmarquardt@co.otero.nm.us>
Subject: Litigation update, January 2021

Dear Commissioners,

Here is a list of the pending lawsuits Otero County is currently involved in and their status.

- Joe Quintero v. Preston Eldridge, filed April 2015. Eldridge is a sheriff's deputy. He went to Quintero's home and took a cell phone out of his hand, which is a batter under state law. This is a civil rights lawsuit. Quintero's attorney died and was not replaced. So Mr. Quintero is representing himself. We want to settle this case because we are in the wrong here. But Mr. Quintero has not been reasonable in his settlement demand. Discovery in this case is in progress.
- Carlos Hicks v. District Court Judge, filed September 2018. Hicks was an inmate at the jail. He was also housed on our behalf at the Otero County Prison and at the county jail in Lordsburg. He filed this initially pro se but now has a lawyer. There have been problems getting all his records together. Hicks is claiming civil rights violations because of his long periods in isolation and supposed neglect of his medical needs. Our lawyers don't have a good sense of the value of this case because the initial complaint was vague on the specifics. We are waiting for his lawyers to file an amended complaint.
- State ex rel. Twelfth Judicial District Court v. Board of County Commissioners (B.O.C.C.), filed October 2018. This is the lawsuit over the courthouse. The court claims that the Board has not complied with the statute requiring the county to provide the court with "adequate quarters." This lawsuit has been stayed by order of the Supreme Court since March 2019.
- City of Albuquerque v. Monforte, filed November 2018. Otero County and about 40 other jurisdictions are suing the New Mexico Department of Taxation and Revenue because the department has underpaid local governments on their sales tax distributions. Our attorneys have been engaged in settlement talks for months. The department has all the data and our lawyers are negotiating with the department to run analyses through their computers as part of the settlement talks. The department was trying to push a quick (and cheap) settlement a few months ago but that seems to have fizzled out. The data our lawyers have says Otero County is owed about $100,000. We'll get less than that in a settlement. Our lawyers are working on contingency here.
- Joshua Marchand v. B.O.C.C., filed December 2018. Marchand was a sheriff's deputy. He was fired for false statements on his job applications. He appealed this decision to District Court. The District Court judge ordered the county to conduct a new termination process and termination hearing. That was done. The new hearing was held in November 2020. The hearing officer ruled for the county last month. I expect Marchand to appeal this again to District Court. We have a strong case but Marchand's lawyer is tireless. The same lawyer represented Marchand in another case that took 14 years to conclude.
- State ex rel. B.O.C.C. v. Ted Baca, filed March 2019. This case also involves the courthouse. The county filed a petition for a writ of superintending control against Judge Ted Baca, the judge in the courthouse case. This case is pending in the Supreme Court. It was to be argued in July 2019 but we agreed to a stay while we engaged in settlement talks. Those talks were unsuccessful because we do not have the money to do the things the court wants. We have asked the Supreme Court to lift the stay and set the case for oral argument. The issue here is whether the way the Twelfth District has filed their district court lawsuit is proper. Even if we were to lose the Supreme Court case, we would still be able to argue the facts at the District Court and then appeal any adverse ruling.
- B.O.C.C. v. Amerisource Bergen, filed April 2019. Otero County is one of 3,000 local governments suing the opioid painkiller industry. This suit was filed in Federal court here in New Mexico but consolidated with the other cases across the nation before a judge in Cleveland, Ohio. Discovery and settlement talks are ongoing. The judge in Cleveland, Dan Polster, has been trying to push the case forward but a number of his rulings have been reversed by the Court of Appeals. Most of the counties of New Mexico are suing the opioid industry. Our lawyers here are working on contingency. There is no estimate on what Otero County might receive or how long this litigation will take.
- Benny House v B.O.C.C., filed August 2018. Sheriff House wanted to promote Cpl. Theo Livingston to be a captain in the department. There was not an open captain spot in existence. The Board told House that it would consider creating such a position but House had to follow the personnel ordinance and work with the Human Resources Department. Sheriff House did not do so. He unilaterally appointed Cpl. Livingston as a captain. When the county manager disallowed this, he and Livingston filed suit. The District Court ruled for the county. House and Livingston filed an appeal in August 2019. Last month, the Court of Appeals took its first action, calling for briefs to be filed. We think we have strong arguments for the appeal. The same lawyer who has the Marchand case is working for House and Livingston.
- Shane Sandoval v. Valle, filed August 2019. This is a federal civil rights lawsuit filed by a pro se inmate. We have never been served with the suit. Most likely the Federal court will dismiss the case with minimal effort on our part.
- Neil LaSalle v. County of Otero, filed November 2018. This is a lawsuit over the Inspection of Public Records Act. LaSalle was a sheriff's deputy. There were issues with harassment against LaSalle. An investigation was done. LaSalle wanted the audio recordings of people speaking to H.R. The county declined to provide them. There's an exception in the law for opinions in a personnel file. We considered the recordings exempt from disclosure under that provision of law. LaSalle sued. We won in District Court. LaSalle appealed in December 2019. Last month, the Court of Appeals issued a proposed ruling saying the District Court judge should not have granted summary judgement to the county because there was a dispute over the facts of the case. If the Court of Appeals makes that ruling final, the District Court judge would go back and look at the facts again and we might have to have a trial. It doesn't mean we've lost on the merits at this points, just on a procedural point. I think we are correct on the law, but the Court of Appeals usually

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rules against the government in these cases.

- B.O.C.C. v. Bo Carrell, filed January 2020. This case sought to condemn a construction easement on property needed for the Riata Road bridge. An agreement was reached with the landowner. The judge has not yet acted on the pending motion to dismiss the case.
- Frank Dombos v. B.O.C.C., filed April 2020. Dombos is serving a sixty-year sentence in the Department of Corrections. He has filed repeated records requests about the his criminal case, the investigation of which was done in 2004. Dombos is a jail house lawyer. He has filed numerous motions and discovery demands. At issue in this case is a videotape made by the Sheriff's Office when they executed a search warrant of his home in 2004. We denied having the tape. But in cleaning out files, a tape turned up that may be the one sought. We are having it converted—it's an 8mm cassette—and plan to have the judge review the tape to see what is on it. Right now this case is set for a trial later this year. Because there were mistakes by the Sheriff's Office in how the request was handled, we may have liability to Dombos.
- Open Access New Mexico v. Sylvia Tillbrook, filed May 2020. Blair Dunn submitted a request under the Inspection of Public Records Act for material from the Facebook page of the Cowboys for Trump organization. The request was denied because these records are not in the control of Otero County and do not constitute public records under the law. The county's motion to dismiss was filed in the summer and we are awaiting a hearing on that motion.
- Jeff Swanson v. Sylvia Dunn. Blair Dunn submitted a request under the Inspection of Public Records Act for material from the Facebook page of the Cowboys for Trump organization. The request was denied for the same reason as above. This suit is different than the Open Access case because the lawsuit claims that Commissioner Griffin violated the First Amendment rights of Swanson by blocking him on Facebook. The county removed this lawsuit to Federal court. We are awaiting a hearing on our motion to dismiss the case.
- Theo Livingston v. B.O.C.C., filed June 2020. This is connected to the Marchand and House cases above. Theo Livingston was interviewed by the F.B.I. as part of its investigation of Marchand. The county denied Livingston's request for a copy of this interview but later supplied him with it. Our insurers are looking to make a nuisance settlement on this case.
- Benjamin Hinds v. Otero County Detention Center, filed July 20. This is a pro se inmate case claiming civil rights violations. We are awaiting a hearing on our motion to dismiss filed in August 2020.
- Sandra Matheson v. William Garza, filed August 2020. This is an auto-accident case. Matheson ran into our employee on White Sands Boulevard. We have countersued.
- Clayton Whitehead v. Timothy Garcia, filed August 2020. This is a pro se inmate case claiming he was assaulted by a jail guard. We have never been served with this lawsuit. Like most pro se cases, this one will probably get dismissed.
- Benjamin Hinds v. Carolyn Barela, filed October 2020. This is the same matter as the above case with Hinds, only this one was filed in Federal court. Our lawyers are planning to file a motion to dismiss.
- Clayton Wade Whitehead v. Timothy Garcia, filed October 2020. This is the same matter as the above case with Whitehead, only this one was filed in Federal court. We have never been served with this lawsuit. Like most pro se cases, this one will probably get dismissed.

Ave,
Michael

Michael Eshleman
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575-437-7427 (telephone)
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575-443-2928 (facsimile)
meshleman@co.otero.nm.us

AMERICAN OVERSIGHT

From: Alice M Jax <alicejax@gmail.com>
Sent: Friday, January 08, 2021 1:41 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: NMGOP Email

Hello Commissioner,

I received a disturbing email from former congressman Steve Pearce from the NMGOP. The following was my response....

Alice M Jax <alicejax@gmail.com> 11:33 AM (4 minutes ago)

to Republican

I support patriots and the president. We tried every legal avenue to contest a stolen election....where the hell were you all? New Mexico has some suspicions about the validity of this state's elections. I do not support you just so you can keep your comfy lobbyist jobs and will never again. I hope the 80 million Trump Supporters follow suit and you experience what it's like to actually work for a living instead of duping people out of their hard earned money so you can live in a trickle up economy. Don't email me any more with your bullshit. Go Couy. He is my city commissioner. Who the hell are you people? Go Yvette! we need more brave conservatives and less of you.

Sincerely,

Allie Jax

I know you get almost as much shit as President Trump from New Mexico and Alamogordo in particular but there are tons of people who support what you stand for and what you do every day to stand up for America. Thanks, don't give up because I'm not planning on it....and my Trump Flag Just got 10 feet higher!

Allie

AMERICAN OVERSIGHT

From: Pamela Mickle <pam@mickle.com>
Sent: Monday, January 11, 2021 11:06 AM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Not peaceful

Mr. Griffin,

I saw your pitiful video from Roanoke after the attack on the Capitol building. You may have been a peaceful protestor but you need to denounce those who were not. You also need to tone down your existential rhetoric stirring and inciting violent attacks. You need to broaden your sources of information so you do not spread lies about China overtaking our country. Your "war" IS with the Democrats and you contributed to people attacking the US Capitol Police with flag poles with American flags. Take some responsibility for this insanity. Stop buying Trump's Big Lie about election fraud.

Pamela Mickle
Las Cruces, NM

AMERICAN OVERSIGHT

From: Dunning Kreuger <trexit2020covid45@gmail.com>
Sent: Thursday, January 07, 2021 10:10 AM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Orange letter day

Well it is official. Trump lost and you can go back to living in your mother's basement.

AMERICAN OVERSIGHT

From: U.S. Department of Education <ed.gov@public.govdelivery.com>
Sent: Wednesday, January 13, 2021 3:26 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Reminder: Webinar Tomorrow! Learning in a Pandemic

Attention Educators and Families!

Learning Loss Webinar

Please join the U.S. Department of Education for a discussion on the state of student learning during the pandemic and tools that families and teachers can use to support student learning now. This event will educate parents and teachers on the state of learning today and how you can better support your students during the pandemic.

This forum will review the most updated research on the state of student learning today and share personalized platforms you can utilize to support student learning immediately. Institute for Education Sciences (IES) Director Mark Schneider will moderate a discussion with national leaders in the research field, Stanford's Center for Research on Education Outcomes (CREDO) and NWEA, as they review findings on national learning loss. Then, Assistant Secretary for Planning, Evaluation, and Policy Development (OPEPD) Jim Blew will moderate a discussion on the power of individualized learning platforms with two examples for how to approach personalized learning for your students, Gooru and New Classrooms.*

Event Details:

- Thursday, January 14, 2021 from 5:30 PM to 6:30 PM EST (please note start time and time zone).
- You must RSVP to join the forum. Please use the following link to register (if you have already registered you do not need to submit a new registration): https://www.eventbrite.com/e/learning-in-a-pandemic-resources-to-support-students-registration-134526681927
- Upon successful registration, you will receive an email containing a personalized access link.

We hope you can join us in support of your students.

Respectfully,
Office of Planning, Evaluation, and Policy Development
U.S. Department of Education

** The views expressed at this event do not necessarily represent the positions or policies of the U.S. Department of Education (Department). No official endorsement by the Department of any publication, product, commodity, service, or enterprise is intended or should be inferred. This event contains examples of potentially useful information for the participant's convenience. The Department does not control or guarantee the accuracy, relevance, timeliness, or completeness of this non-Department information. The inclusion of these examples is not intended to reflect their importance, nor is it intended to endorse views expressed, or products or services offered. Inclusion of such information does not constitute an endorsement by the Department or a preference for these examples as compared with others that might be presented. Additionally, this discussion should not imply an endorsement of any organization, curriculum, or learning model.*

###

AMERICAN OVERSIGHT

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This service is provided to you at no charge by U.S. Department of Education.

This email was sent to cgriffin@co.otero.nm.us by U.S. Department of Education · 400 Maryland Ave · Washington DC 20202 · 800-USA-LEARN

From: Kat Daniel <pojoaquekat2002@yahoo.com>
Sent: Thursday, January 14, 2021 3:28 AM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: RESIGN!

To: Couy Griffin

I am one of the hundreds of thousands of volunteers who for weeks or months have called and/or texted hundreds or thousands of potential voters a day across the country to educate them as to their voting rights. I was one tiny cog in this massive effort to GOTV. Do you know what GOTV is? It is an acronym for GET OUT THE VOTE, which is exactly what we did, which is exactly the opposite of what your party does, and that is how I know this was a free and fair election. Because I was one tiny cog in a mammoth voter education machine!

Ironically, we were most likely the reason trump received so many votes too, because we remained nonpartisan in our efforts.

There was no (significant) voter fraud. More people voted for President-elect Joe Biden and Vice-President-elect Kamala Harris!

And you are no patriot, sir. Since there MUST be Democrats in the county where you are supposed to be Commissioner, and you think they are "better off dead," you cannot possibly fairly or democratically represent your county. So RESIGN! You are a source of shame for New Mexico and a scourge on the. nation!

So, so sincerely,
Kathleen Daniel

Sent from Yahoo Mail on Android

AMERICAN OVERSIGHT

From: Lynden Jones <lynden1211@gmail.com>
Sent: Sunday, January 10, 2021 6:39 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Resign

Mr. Griffin,

I am a 6th generation New Mexican that has family that fought in wars defending our nation from the Civil War to WW1, WW2, Korea, Vietnam and the Middle East conflicts. All proud New Mexicans.

Your support for Donald Trump and what transpired in our Capitol on 06 January 2021 places you in the category of seditionist and traitor, both to the Great state of New Mexico and the United States.

You need to immediately step down and leave the state. You are a disgrace. My uncle was the Catron County sheriff for 25 years. If he were still in office, I'm confident he would work diligently toward your removal.

My friend, the late Governor Bruce King, would have you rode out on a rail. MLG is his friend as well. Best be packing your bags to go home to Texas.

Go on, GET!

AMERICAN OVERSIGHT

From: thomasf27@yahoo.com <thomasf27@yahoo.com>
Sent: Friday, January 08, 2021 3:45 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: riot

So proud to have a traitor pushing the storming of OUR HOUSE (not yours) representing New Mexico, you sorry mother fucker.

AMERICAN OVERSIGHT

From: Paul M. Goricki <pmgoricki@gmail.com>
Sent: Sunday, January 10, 2021 1:41 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Shame on You

Mr. Griffin, I've just read your quote in today's New York Times:
"Couy Griffin, 47, a Republican county commissioner from New Mexico, spoke of organizing another Capitol rally soon — one that could result in "blood running out of that building"
Why are you using violent words to pour fuel on the fires of division on our country?
Whatever grievances your "Cowboys for Trump" organization have, I encourage you to protest in a peaceful, legal manner.
For an elected official to use inflammatory language that threatens the center of our government places is reprehensible and unworthy of public office.
Please be careful not to hurt the country you profess to love.

AMERICAN OVERSIGHT

From: Stephan Helgesen <stephan@stephanhelgesen.com>
Sent: Thursday, January 14, 2021 9:42 AM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Spam:******, Article: Erasing Donald Trump

Click here to read the article:"Erasing Donald Trump"

Second Opinion Marketing
6565 America's Parkway NE
Suite 200
Albuquerque, NM 87110

Unsubscribe cgriffin@co.otero.nm.us

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AMERICAN OVERSIGHT

From: Stephan Helgesen <stephan@stephanhelgesen.com>
Sent: Thursday, January 07, 2021 10:08 AM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Spam:******, Article: Washington's Reichstag moment

Click here to read the article:"Washington's Reichstag moment"

Second Opinion Marketing
6565 America's Parkway NE
Suite 200
Albuquerque, NM 87110

Unsubscribe cgriffin@co.otero.nm.us

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AMERICAN OVERSIGHT

From: White House Office of Intergovernmental Affairs <IGA.state@who.eop.gov>
Sent: Thursday, January 14, 2021 11:14 AM EST
To: Griffin Couy <cgriffin@co.otero.nm.us>
Subject: Spam:*****, Farewell and Thank You!

Office of Intergovernmental Affairs

Farewell and Thank You!

The White House Office of Intergovernmental Affairs | January 14, 2020

On behalf of the White House Office of Intergovernmental Affairs (IGA), we want to thank you - the more than 500,000 State, Local, Territorial, and Tribal leaders across the country - for your service in your States and communities and partnership over the past four years. It has been the honor of a lifetime for us to serve as your liaison in the White House and to work together to better address shared challenges and advance shared opportunities.

Since the beginning of this Administration, our mission has always been to build a bridge of communication, coordination, and engagement with *all* levels of government. Opening up the Administration to unprecedented, bipartisan outreach and access promoted federalism and pushed decision-making back towards you - the officials closest to the people. We are proud that our office helped President Trump keep his inaugural promise of "transferring power from Washington, D.C. and giving it back to you, the American People."

Through the White House *State Leadership Days Initiative*, we welcomed more than 5,000 local officials - including over 3,000 county officials- to the White House across **45 events** for briefings and discussions with Senior Administration Officials. The State Leadership Days established the foundation for unprecedented collaboration with local officials and culminated with President Trump **delivering remarks** to the National Association of Counties (NACo) 2020 Legislative Conference - the first President to address NACo since 1996. Find feedback from State Leadership Day attendees **here** (2017-18) and **here** (2019).

Through conferences, summits, roundtables and other targeted engagements, we drove collaboration with our stakeholders on shared, bipartisan policies and priorities. Engagements included, but are not limited to:

- White House Business Session with our Nation's Governors (**2017**, **2018**, **2019**, **2020**)
- Tribal, State & Energy Roundtable (**2017**)
- White House Infrastructure Summit with State & Local Officials (**2017**)
- Meeting with Local and State Officials on School Safety (**2018**)
- White House Women Municipal Leaders Conference (**2018**, 2019)
- Affordable Housing Roundtable (**2018** & 2019)
- White House Opportunity Zone Conference (**2019**)
- Meeting with State Attorneys General (**2019**)
- Meeting with Our Nation's Sheriffs (**2019**)
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- White House Summit on Supporting Contemporary Native American Veterans (**2019**)
- White House Summit on Human Trafficking (**2020**)
- White House Summit on Transforming America's Communities with our Nation's Mayors (**2020**)
- White House Opportunity Now Summit (**2020**)
- National Dialogue on Safely Reopening America's Schools (**2020**)
- White House Operation Warp Speed Vaccine Summit (**2020**)

These engagements do not capture the thousands of direct interactions with State, Local, Territorial, and Tribal officials over four years of service.

Through the *Governor's Initiative on Regulatory Innovation*, we extended the Administration's deregulatory accomplishments to the State, Local, and Tribal levels and worked alongside our stakeholders to cut red tape, create jobs, and grow economies across the country. Over 700 of you joined us as *champions* of this **Initiative** and worked to advance common sense solutions to occupational licensing and other regulatory barriers impacting the lives of your constituents.

We also worked collaboratively with stakeholders to advance a wide variety of shared priorities. They included the Tax Cuts and Jobs Act, the United States-Mexico-Canada Agreement (USMCA), three United States Supreme Court Justice Confirmations, urban revitalization and rural prosperity through (e.g. opportunity zones and broadband), disaster recovery and resilience, border security, criminal justice reform, education empowerment and school choice, workforce and economic development, combating the opioid epidemic, supporting our Nation's veterans, and countless other issues to uplift the lives of your fellow citizens. To support these priorities and help stakeholders navigate Federal resources and programs, we developed comprehensive intergovernmental guidance, like the **Disaster Recovery & Resilience Guide** and the **Guide to Promoting Rural Prosperity in America**.

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With our Nation's federally recognized Tribal governments, we prioritized engagement around shared policies and priorities. Significant engagement areas included missing and murdered indigenous persons through **Operation Lady Justice**, **addressing abuses** in the Indian Health Service (IHS), and **repatriating** culturally important remains and artifacts. IGA also supported the **re-establishment** of the White House Council on Native American Affairs to improve interagency coordination on policies and priorities important to our Tribal partners. Engagement culminated with release of President Trump's policy vision for Indian Country – **Putting America's First Peoples First: Forgotten No More** - highlighted through a White House delegation **visit** to Arizona in October 2020.

In response to natural disasters and other emergencies, IGA supported the Federal government's preparedness, response, and recovery efforts in coordination with stakeholders in impacted States and communities. We worked diligently to ensure open lines of communication at all levels of government, provide pertinent guidance, and help deliver unprecedented financial resources and other support. Our team also supported the President and Senior Administration Officials' travel to impacted communities, such as Lynn Haven, FL, following Hurricane Michael, New Bern, NC following Hurricane Florence, and Paradise, CA following the Camp Fire, to meet directly with you and your constituents.

In response to the COVID-19 pandemic, we organized 49 Governors-only briefing calls, 33 National Briefing calls with State, Local & Tribal leaders, dozens of Tribal-specific calls, and numerous State/Local/Tribal Association briefings. This led the Administration's overarching COVID-19 engagement that totaled more than 1,000 briefings touching over 250,000 contacts with State, Local, and Tribal officials in the most robust Federal-State collaboration in modern American history. We also supported countless White House Coronavirus Task Force and Administration direct interactions with State, Local, and Tribal leaders to assist in their response and recovery efforts. While challenges remain, we hope that our efforts empowered you to better keep your constituents safe, healthy, and informed.

In closing, we thank you - statewide officials, mayors and city council members, county commissioners, state legislators, sheriffs and law enforcement/first responders, Tribal leaders, and countless other stakeholders - for your support, partnership, and most importantly, service in your States and communities. We also want to recognize our past and present colleagues in the White House Office of Intergovernmental Affairs and those across the entire Federal family for their hard work and dedication to you. Our efforts would not have been possible without their support.

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Sincerely,

The White House Office of Intergovernmental Affairs

William F. Crozer
Special Assistant to the President & Deputy Director
O: 202-456-8491 | C: 202-881-8545 | E: **William.F.Crozer@who.eop.gov**
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Nick Barbknecht
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Gabby Uli
Associate Director
Cell 202-881-8552
Gabriella.M.Uli2@who.eop.gov

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Office of Intergovernmental Affairs · 1600 Pennsylvania Ave NW · Washington, DC 20500-0003 · USA · 202-456-1111

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Sincerely,

The White House Office of Intergovernmental Affairs

William F. Crozer
Special Assistant to the President & Deputy Director
O: 202-456-8491 | C: 202-881-8545 | E: **William.F.Crozer@who.eop.gov**
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Cell 202-881-8552
Gabriella.M.Uli2@who.eop.gov

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AMERICAN OVERSIGHT

From: NMBiz <nmbiz@nmbizcoalition.org>
Sent: Tuesday, January 05, 2021 7:05 AM EST
To: Couy Dale Griffin <cgriffin@co.otero.nm.us>
Subject: Spam:*****, Round 2 of $timulus delayed, businesses push back, and more

View this email online if it doesn't display correctly

P.O. Box 95735, Albuquerque, NM 87199, United States

You may unsubscribe or change your contact details at any time.

Dear Couy,

Second round of Paycheck Protection Program stuck in limbo

As part of a $900 billion relief bill signed by President Trump, Congress approved more than $284 billion in new Paycheck Protection Program (PPP) funding and extended the program through March 21, 2021.**However, guidance and regulations related to this second round of PPP have not yet been issued. Before the loans can start going out to businesses in need, the SBA must finalize their guidelines for this second round of relief.** In the meantime, **you can prepare for a new or 2nd PPP loan by gathering the following documentation to help your application process:**

- 2020 vs 2019 Quarterly comparison of Gross revenues (request the DF Qualification Spreadsheet);
- 2019 Tax Returns- Corporate Tax Return or Schedule C of the 2019 IRS form 1040;
- 2019 Bank Statements- February through December
- 2019 Payroll Summary- February through December

The qualifying requirements are:
- Demonstrating at least a 25% reduction in gross receipts during a quarter in 2020 relative to the same quarter in 2019;
- Employing 300 or fewer employees;
- Having used or will use the full amount of their first PPP loan.

The PPP program will broaden the expenses covered with the PPP funds. These expenses include: payroll costs, rent, utilities, mortgage interest, operational expenses, payments to suppliers, property damage.

Program highlights

SBA webpage for PPP

NMBC will continue to monitor the second round of PPP relief funds and notify you as soon as the application process opens

Governor faces another lawsuit over virus restrictions

In the latest attempt to push back on Governor Lujan Grisham's executive overreach, multiple NM businesses are suing to nullify the the emergency health order restricting operations. The lawsuit alleges that the Governor and DOH have imposed arbitrary and unnecessary restrictions for the pandemic, and seeks to have the US District Court override the Governor's executive orders.

In addition to overturning the Governor's orders, the lawsuit also seeks to limit any future public health orders to “an extremely limited period of time” unless authorized by the Legislature. The suit also includes a request for plaintiffs to be compensated for income lost due to the lockdowns. Click HERE to read more.

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How your Congressional Delegates voted

For the week ending January 1st, your New Mexico Congressional Delegates voted on increasing stimulus checks to $2,000 (which was blocked), and overriding President Trump's veto of the military budget in both the House and Senate. Click here to read more.

NMBC depends on the support of New Mexicans like you. Help us continue our work.

INVEST HERE TODAY!

Contact NMBC at (505) 836-4223 or nmbiz@nmbizcoalition.org for more information.

P.O. Box 95735, Albuquerque, NM 87199, United States

You may unsubscribe or change your contact details at any time.

=

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From: White House Office of Intergovernmental Affairs <IGA.state@who.eop.gov>
Sent: Sunday, January 10, 2021 12:54 PM EST
To: Griffin Couy <cgriffin@co.otero.nm.us>
Subject: Spam:*****, White House IGA Weekly Recap: 33rd COVID-19 National Briefing Call

Office of Intergovernmental Affairs

White House IGA Weekly Recap

for State, Local, and Tribal officials | January 8, 2021

On behalf of the White House Office of Intergovernmental Affairs (IGA), we are pleased to provide you with a readout of this week's 33rd COVID-19 National Briefing Call with Senior Administration Officials.

We appreciate your partnership and will continue to share pertinent updates as they become available. As a reminder, IGA is the primary liaison between the White House and America's State and Local elected officials and Tribal governments. Please do not hesitate to reach out if we can ever be of assistance.

Sincerely,

The White House Office of Intergovernmental Affairs

William F. Crozer
Special Assistant to the President & Deputy Director
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Deputy Associate Director
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Gabriella.M.Uli2@who.eop.gov

Readout from the 33rd National COVID-19 Briefing Call

Thank you for your efforts in the whole-of-America approach to responding to COVID-19. In addition to this week's recap, we would like to highlight several additional items and announcements.

- On January 5th, Vice President Mike Pence led a White House Coronavirus Task Force Meeting. The Task Force meeting focused primarily on vaccine distribution and implementation.
- HHS Secretary Alex Azar **renewed** the COVID-19 national public health emergency declaration, effective January 21, 2021. Read more about the declaration **here**.
- FEMA's Public Assistance program is supporting vaccine distribution and administration. Learn more **here**.
- SBA, in consultation with Treasury, announced that the Paycheck Protection Program (PPP) will reopen the week of January 11 for new borrowers and certain existing PPP borrowers. Read more **here**.
- The Centers for Disease Control and Prevention launched a vaccination data page with jurisdiction-level data. The page tracks the total number of COVID-19 vaccines administered in the United States. You can find the tracker **here**.
- The U.S. Small Business Administration **announced** that the deadline to apply for the Economic Injury Disaster Loan (EIDL) program for the COVID-19 pandemic disaster declaration is extended through December 31, 2021.
- The U.S. Department of Education **announced** more than $4 Billion in emergency education grants for Governors to help students continue learning.
- HHS **finalizes** unprecedented regulatory reform through retrospective review - new rule requires Department to assess its regulations every 10 years

Image

Vice President Mike Pence hosts Coronavirus Task Force Meeting on January 5th.

Participants on the January 6th National COVID-19 Briefing Call included:

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- Dan Kowalski, *Counselor to the Secretary of the Treasury*
- Ambassador Deborah Birx, *M.D., White House Coronavirus Task Force Coordinator*
- ADM Brett Giroir, *Assistant Secretary of Health, HHS*
- Paul Mango, *Deputy Chief of Staff for Policy, HHS*
- Lt. General Paul Ostrowski, *Principal Military Deputy to the Assistant Secretary of the Army & Director of the Army Acquisition Corps*
- Governor Jim Justice, *State of West Virginia*

HHS Secretary Alex Azar: **It's important to continue taking steps to protect ourselves & loved ones:**
✔Wash your hands
✔Watch your distance
✔Wear a mask
✔Ask your doctor about antibody therapies if you test positive & are 65+or at risk for severe disease
✔Get vaccinated when you can

Dan Kowalski, *Counselor to the Secretary of the Treasury*: Dan reported that on December 27, 2020, President Trump signed into law H.R. 133, an Act making consolidated appropriations for the fiscal year ending September 30, 2021, providing coronavirus emergency response and relief. Among other provisions, **the legislation extends the deadline for the expenditure of CARES Act Coronavirus Relief Fund monies from December 30, 2020 to December 31, 2021.**

On December 29, 2020, the Treasury Department and the Internal Revenue Service announced that it began delivering a second round of **Economic Impact Payments** to millions of Americans as part of the implementation of the Coronavirus Response and Relief Supplemental Appropriations Act of 2021. The initial direct deposit payments began that night with paper checks to follow in the weeks ahead. This second round of payments will provide critical economic support to those who, through no fault of their own, have been adversely impacted by the COVID-19 pandemic. Read more: **Treasury Is Delivering Millions of Economic Impact Payments by Prepaid Debit Card**. You and your constituents may check the status of payments at **IRS.gov/GetMyPayment**. For more information about Economic Impact Payments, please visit **IRS.gov/EIP**.

Dan noted that Treasury launched a $25 billion **emergency rental assistance program** established by the Consolidated Appropriations Act, 2021. The ERAP assists households that are unable to pay rent and utilities due to the COVID-19 pandemic. The funds are provided directly to States (including the District of Columbia), U.S. Territories, local governments with more than 200,000 residents, the Department of Hawaiian Home Lands, and Indian tribes (defined to include certain Alaska native corporations) or the tribally designated housing entity of an Indian tribe (collectively, "eligible grantees"). Eligible grantees must use the funds to provide assistance to eligible households through existing or newly created rental assistance programs. Read more **here**.

Ambassador Deborah Birx, *White House Coronavirus Task Force Coordinator*: Dr. Birx provided a brief recap on her travel over the past year. She travelled the country consulting with medical professionals in every corner of States from coast to coast to help them with their pandemic response.

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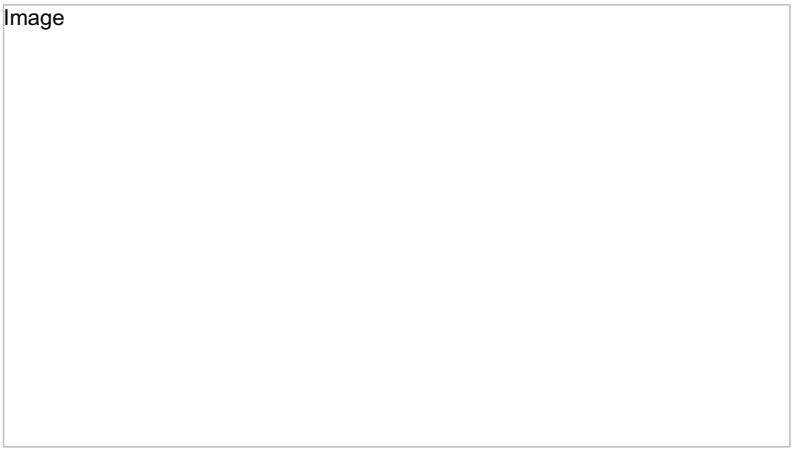
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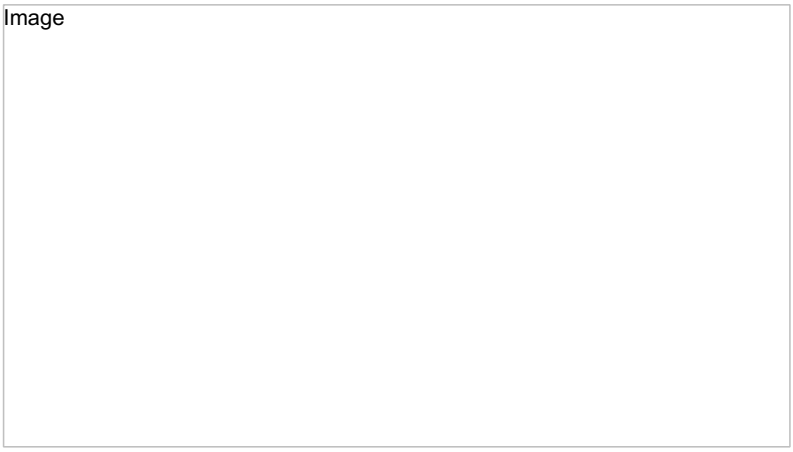
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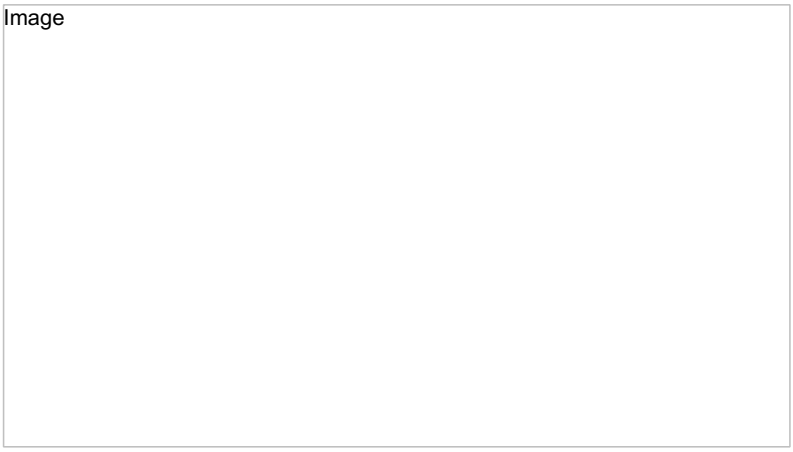
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Dan noted that Treasury launched a $25 billion **emergency rental assistance program** established by the Consolidated Appropriations Act, 2021. The ERAP assists households that are unable to pay rent and utilities due to the COVID-19 pandemic. The funds are provided directly to States (including the District of Columbia), U.S. Territories, local governments with more than 200,000 residents, the Department of Hawaiian Home Lands, and Indian tribes (defined to include certain Alaska native corporations) or the tribally designated housing entity of an Indian tribe (collectively, "eligible grantees"). Eligible grantees must use the funds to provide assistance to eligible households through existing or newly created rental assistance programs. Read more **here**.

Ambassador Deborah Birx, *White House Coronavirus Task Force Coordinator*: Dr. Birx provided a brief recap on her travel over the past year. She travelled the country consulting with medical professionals in every corner of States from coast to coast to help them with their pandemic response.

Dr. Birx also provided an update on trends we are currently seeing across the nation. She noted that more testing is being conducted, which is driving the high test positivity. The rate of rise in COVID-19 cases is about 2 times more than this past spring and summer. We are also possibly seeing the United Kingdom's variant that could have a higher rate of transmission. Overall, much more aggressive actions need to take place as 30 states are now seeing high rates of hospitalizations, particularly in AZ, CA, OK, SC, and NV to name a few. Dr. Birx's final thought on the call was that it is important for states to have pro-active vaccination plans in place for young individuals because they are often spreading the virus even unknowingly.

ADM Brett Giroir, *Assistant Secretary of Health, HHS*: ADM Giroir provided an update on testing and protecting our most vulnerable citizens. Approximately 251 million tests have been completed nationally with likely another 70-80% of the tests not yet reported to the CDC. The Federal Government has the capacity to provide 170 million tests during the month of January alone and a significant amount of more tests will need to be used by the end of the month.

Additionally, as of January 5, 2021, 310 tests and sample collection devices have been authorized by the FDA under emergency use authorizations (EUAs). These include 235 molecular tests and sample collection devices, 64 antibody tests, and 11 antigen tests. There are 32 molecular authorizations that can be used with home-collected samples. There is one molecular prescription at-home test, one antigen prescription at-home test, and one over-the-counter (OTC) at-home antigen test.

Paul Mango, *Deputy Chief of Staff for Policy, HHS* & Lt. General Paul Ostrowski, *Principal Military Deputy to the Assistant Secretary of the Army & Director of the Army Acquisition Corps*

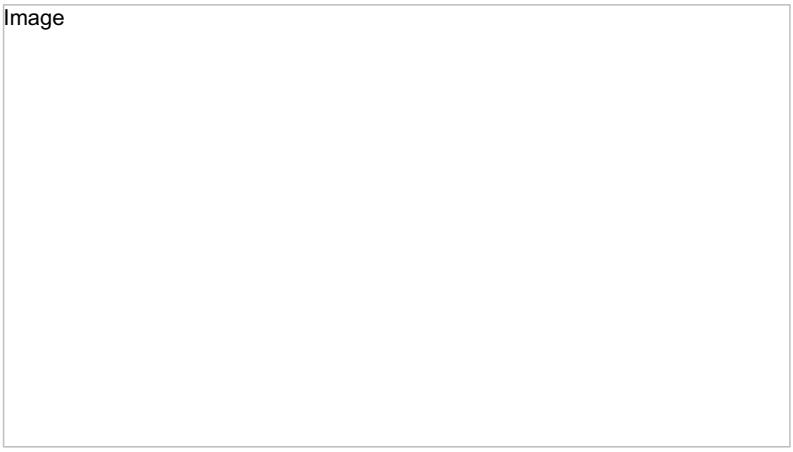
As key leaders in the operations and logistics of Operation Warp Speed, Lt. General Ostrowski and Paul Mango discussed the whole-of-America response to the COVID-19 pandemic which requires coordinated reporting to track and analyze data. This data is reported to state and jurisdictional health departments in accordance with applicable state or local law and in accordance with the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

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The HHS Protect Public Data Hub provides through up-to-date information on hospital reporting, therapeutics, and national testing.

☐ **Read More: More Than 15.9 Million Shots Given: Covid-19 Vaccine Tracker, The U.S. has administered 5.48 million doses; Europe's rollout begins**

☐ **Watch: January 6 update from General Gustave Perna and HHS Secretary Alex Azar on Operation Warp Speed.**



On Thursday, January 7, 2021, the Department of Health and Human Services (HHS) announced two upcoming actions by the Centers for Disease Control and Prevention (CDC) to provide **more than $22 billion in funding to states, localities, and territories in support of the nation's response to the COVID-19 pandemic**, as directed by the Coronavirus Response and Relief Supplemental Appropriations Act.

Funding will provide critical support for testing and vaccination-related activities to jurisdictions before January 19, 2021:

- More than $19 billion will be allocated to jurisdictions through the existing CDC Epidemiology and Laboratory Capacity (ELC) cooperative agreement. These awards will support testing, contract tracing, surveillance, containment, and mitigation to monitor and suppress the spread of COVID-19. Award recipients will include 64 jurisdictions including all 50 states, the District of Columbia, five major cities, and U.S. territories/islands. Consistent with Congressional direction, funds will be allocated by a population-based formula.
- Over $3 billion will be made available in an initial award to jurisdictions through the existing CDC Immunization and Vaccines for Children cooperative agreement. These awards will support a range of COVID-19 vaccination activities across jurisdictions. Award recipients will include 64 jurisdictions including all 50 states, the District of Columbia, five major cities, and U.S. territories/islands. Consistent with Congressional direction, funds will be allocated by a population-based formula.

Surgeon General Jerome Adams: OWS will send vaccinations to where States want to and tell us. Many have not only expanded to phases beyond 1A but are using pharmacy chains and other sites to expand vaccination locations. We will continue to work with States to expand and accelerate vaccinations!

Governor Jim Justice, *West Virginia*: The Governor discussed practices implemented in West Virginia that other State and local leaders may want to consider for vaccine distribution rates. Governor Justice noted that he immediately directed first responders administering COVID-19 tests to utilize local pharmacies. He also ensured the state established schools in vaccinating teachers and school personnel in order to allow kids to return to school sooner. The Governor said the key is to keep the vaccine distribution messaging and coordination simple and focus on getting vaccines actually administered to senior communities.

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From: White House Office of Intergovernmental Affairs <IGA.state@who.eop.gov>
Sent: Monday, January 04, 2021 2:04 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Spam:*****, ☎ White House IGA COVID-19 Call Invite White House IGA Weekly Recap

Office of Intergovernmental Affairs

White House IGA Weekly Recap

for State, local, and Tribal officials | January 4, 2020

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National COVID-19 Briefing Call Registration ☎
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First Lady Melania Trump: **As 2020 ends, we remember the loved ones lost & give thanks to our leaders, frontline workers & others who have come together to fight the global pandemic. The resilience of our country is strong. I send my best wishes for a #NewYear full of health & peace.**

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- Hospital Price Transparency Rule Upheld, Implemented
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Sincerely,

The White House Office of Intergovernmental Affairs

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COVID-19 Response and Coordination Update

On behalf of the White House and entire Administration, we appreciate your partnership in the most robust Federal-State collaboration in modern American history to respond to COVID-19. Below, find pertinent announcements regarding Federal support and coordination efforts.

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Operation Warp Speed (COVID-19 Vaccines)

The U.S. Department of Health & Human Services Provides Operation Warp Speed / Vaccine Distribution Update (December 29, 2020) (**Tweet**)

- We have now allocated 19.88M first doses for delivery, with second doses on hand to be shipped in a few weeks, getting us to the goal of having enough doses available by the end of year for 20M Americans
- Data reported to the CDC significantly lags actual vaccinations administered. The CDC website says "A large difference between the number of doses distributed and the number of doses administered is expected at this point in the COVID vaccination program."
- We are grateful for the work jurisdictions and vaccinators are doing over the holidays, and we're working with jurisdictions who are already executing plans to ramp up rate of vaccinations and expand administration sites
- CDC **published** a COVID-19 vaccination playbook for jurisdictions in September, and has been working with them on their vaccination plans ever since -OWS is providing jurisdictions kits with the needed needles, syringes, and other supplies for vaccinations along with the vaccines
- CDC issued **$200M** to jurisdictions for flu/COVID vaccinations in September -CDC issued another **$140M** to jurisdictions for COVID vaccinations in December
- Across OWS, the DPA has been used 18 times. We have not hesitated to use the DPA, and Secretary Azar has made it clear he'll use every power at his disposal to ramp up vaccine production safely. There are, however, physical and operational limits to safe, quality, vaccine production.
- Vaccines are already free for Americans, thanks to the work of the Trump Administration -HHS has already launched a massive campaign to increase vaccine confidence and encourage uptake
- The first U.S. COVID-19 vaccine authorization was on **December 11** and the first U.S. COVID-19 vaccination was 15 days ago, on **December 14**
- As a reminder, distributing millions of safe and effective vaccines within a year after a novel virus hit our shores is a historic and remarkable accomplishment

☐ **HHS Secretary Alex Azar**: **Operation Warp Speed delivered by the end of 2020**
✔ 2 @US_FDA-authorized vaccines
✔ 5 vaccine candidates in Phase 3 clinical trials
✔ 20 million first doses allocated, with the second doses on hand ready to be shipped a few weeks later.

HHS/DOD Announce Additional Vaccine Procurement: On December 23, the U.S. Department of Health & Human Services and the Department of Defense **announced** the purchase of an additional 100 million doses of COVID-19 vaccine from Pfizer. Pfizer will deliver at least 70 million doses by June 30, 2021 and the full 100 million doses no later than July 31, 2021. On December 11, the Trump Administration **announced** the purchase of an additional 100 million doses of Moderna's COVID-19 vaccine.

CDC Launches COVID-19 Vaccine Data Tracker

The Centers for Disease Control and Prevention launched a vaccination data page with jurisdiction-level data. The page tracks the total number of COVID-19 vaccines administered in the United States. You can find the tracker **here**. Note that data reported to the CDC significantly lags actual vaccinations administered, or as stated by the CDC, "A large difference between the number of doses distributed and the number of doses administered is expected at this point in the COVID vaccination program."

As a reminder, the 64 jurisdictions - which encompasses all 50 States, 8 U.S. territories, and six major metropolitan areas - as well as five federal agencies - including the Indian Health Service, Department of Defense, and Department of Veterans Affairs - are responsible for administering vaccines. Each week, as doses are released by companies for distribution, planes and trucks transport the vaccine to States and jurisdictions across the country. Learn more about the distribution process **here**. Find distribution plans for all 64 jurisdictions **here**, the Indian Health Service **here**, and the Department of Veterans Affairs **here**. Local officials should coordinate with their respective States on any vaccine allocation and/or distribution questions.

5th COVID-19 Vaccine Candidate Begins Phase 3 Clinical Trials

On Monday, December 28, The National Institutes of Health announced that a 5th COVID-19 vaccine candidate funded by NIH began enrollment for its Phase 3 clinical trial. The vaccine, developed by Novavax, will enroll up to 30k volunteers from the U.S. and Mexico.

☐ **HHS Secretary Alex Azar**: **With Phase 3 clinical testing of the Novavax COVID-19 vaccine candidate beginning in the U.S., we have now had five vaccine candidates in the #OperationWarpSpeed portfolio launch Phase 3 clinical trials before the end of 2020.**

The trial is being conducted in collaboration with **Operation Warp Speed** (OWS), a multi-agency collaboration overseen by HHS and the Department of Defense that aims to accelerate development, manufacture and distribution of medical countermeasures for COVID-19. Some of the U.S. trial sites participating are part of the NIAID-supported **COVID-19 Prevention Network** (CoVPN). The CoVPN

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includes existing NIAID-supported clinical research networks with infectious disease expertise and was designed for rapid and thorough evaluation of vaccine candidates and monoclonal antibodies for preventing COVID-19.

Read More: Phase 3 Trial of Novavax Investigational COVID-19 Vaccine Opens

Testing Update

As of Dec. 28, 309 tests and sample collection devices are authorized by the FDA under emergency use authorizations (EUAs). These include 235 molecular tests and sample collection devices, 63 antibody tests, and 11 antigen tests. There are 32 molecular authorizations that can be used with home-collected samples. There is one molecular prescription at-home test, one antigen prescription at-home test, and one over-the-counter (OTC) at-home antigen test.

Admiral Brett Giroir (Assistant Secretary for Health) : We continue to increase the capacity/diversity of #COVID19 testing. in December, we have available > 180 million tests. We have surpassed 2 million tests reported per day on 7 different dats. We have distributed > 122 million #BinaxNOW rapid tests to states and vulnerable.

Additional Updates

Department of Veterans Affairs Vaccine Update: During the week of December 20, the Department of Veterans Affairs (VA) announced the expansion of its COVID-19 vaccination program to an additional 128 sites. On December 31, Secretary Robert Wilkie announced that the VA has administered initial COVID-19 vaccine doses to more than 5,000 veterans residing in its Community Living Centers and Spinal Cord Injury and Disorders Centers and more than 50,000 health care employees. Learn more about COVID-19 vaccines and the VA here.

SBA Extends COVID-19 Economic Injury Disaster Loan Application Deadline: On December 30, 2020, the U.S. Small Business Administration announced that the deadline to apply for the Economic Injury Disaster Loan (EIDL) program for the COVID-19 pandemic disaster declaration is extended through December 31, 2021. To date, the SBA has approved $197 billion in low-interest loans which provides working capital funds to small businesses, non-profits and agricultural businesses make it through this challenging time.

The Doctor Is In: U.S. Surgeon General Jerome Adams released a new video answering a common COVID-19 question – how many shots of the vaccine are needed? Over the next few weeks, the Surgeon General will be releasing videos answering the most common COVID-19 questions.

Vaccine Surveillance: FDA Commissioner Dr. Stephen Hahn explains in a new video how all vaccines, including the COVID-19 vaccines, must adhere to specific FDA guidelines for safety, including ongoing surveillance.

Colleges, Universities, and Higher Learning: CDC updated information for colleges and universities to plan, prepare, and respond to COVID-19.

Considerations for Retirement Communities and Independent Living Facilities: CDC updated information on preventing the spread of COVID-19 in retirement communities and independent living facilities.

Considerations for Community-Based Organizations: As some community-based organizations (CBOs) begin to resume or increase their level of activities, CDC offers the following considerations for ways these organizations can help protect individuals and communities and slow the spread of COVID-19.

Frequently Asked Questions about COVID-19 Vaccination: CDC updated FAQS about COVID-19 vaccination.

Federal Appropriations, COVID-19 Relief Bills Signed

On December 27, 2020, President Trump signed into law the Consolidated Appropriations Act of 2021, providing $1.4 trillion for the fiscal year ending September 30, 2021. In addition to funding the Federal government, the act delivers coronavirus emergency response and relief.

With the signing, the President released the following statement:

I will sign the Omnibus and Covid package with a strong message that makes clear to Congress that wasteful items need to be removed. I will send back to Congress a redlined version, item by item, accompanied by the formal rescission request to Congress insisting that those funds be removed from the bill

I am signing this bill to restore unemployment benefits, stop evictions, provide rental assistance, add money for PPP, return our airline workers back to work, add substantially more money for vaccine distribution, and much more.

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 Read More: [Statement from the President]

Treasury and IRS Begin Delivering the Second Round of Economic Impact Payments to Millions of Americans

The Treasury Department and the Internal Revenue Service will begin delivering a second round of Economic Impact Payments to millions of Americans as part of the implementation of the Coronavirus Response and Relief Supplemental Appropriations Act of 2021. The initial direct deposit payments began arriving as early as December 29 for some and will continue this week. Paper checks began to be mailed on Wednesday, December 30. This second round of payments will provide critical economic support to those who, through no fault of their own, have been adversely impacted by the COVID-19 pandemic.

Eligible individuals will receive an Economic Impact Payment of up to $600 for individuals or $1200 for married couples and up to $600 for each qualifying child. Generally, if you have adjusted gross income for 2019 up to $75,000 for individuals and up to $150,000 for married couples filing joint returns and surviving spouses, you will receive the full amount of the second payment. For filers with income above those amounts, the payment amount is reduced.

This second round of payments will be distributed automatically, with no action required for eligible individuals. If additional legislation is enacted to provide for an increased amount, Economic Impact Payments that have been issued will be topped up as quickly as possible.

The swift issuance of this second round of payments follows the successful delivery of more than $270 billion in CARES Act Economic Impact Payments earlier this year, providing crucial economic support to nearly 160 million Americans.

Eligible individuals may check the status of payments at **IRS.gov/GetMyPayment**. For more information about Economic Impact Payments, please visit **IRS.gov/EIP**.

 Read More: [Treasury and IRS Begin Delivering the Second Round of Economic Impact Payments to Millions of Americans]

Appropriations Bill Enhances Conservation, Outdoor Recreation & Wildfire Prevention

President Trump has made enhancing our nation's conservation initiatives a top priority, signing several historic conservation bills, including the John D. Dingell, Jr. Conservation, Management, and Recreation Act and the Great American Outdoors Act. Unlike other Administration's before it, the Trump Administration succeeded in enacting permanent full and mandatory funding for the Land and Water Conservation Fund and put in place funding to address the long discussed but never solved the problem of the maintenance backlog at our national parks and other public lands. The President also opened or expanded 4 million acres of land to new hunting and fishing opportunities, recovered the most endangered or threatened species in history for the first term of an Administration and treated 5.4 million acres of land to prevent wildfires – a 49 percent increase in comparison to the last 4 years of the previous Administration.

Here are some notable highlights in the Consolidated Appropriations Act of 2021 that Interior supported to improve conservation:

- **Great American Outdoors Act** – Provides full funding through the National Parks and Public Land Legacy Restoration Fund for priority projects addressing the maintenance backlog at national parks, wildlife refuges, public lands and American Indian schools and full funding through the Land and Water Conservation Fund to protect and conserve lands and waters across the country as identified by Interior.
- **Wildfire Management** – Provides $992.6 million ($40.3 million more than 2020) for Interior wildfire management activities, including fire preparedness, fire suppression, fuels management, burned-area rehabilitation, fire facilities and fire science, in addition to $310 million ($10 million more than 2020) for the Wildfire Suppression Operations Reserve Fund. The funding would allow Interior to provide grants to train non-Federal fire departments and similar groups to fight wildfires.
- **National Recreation and Preservation** – Provides two-year funding for the National Recreation and Preservation Account, allowing the National Park Service to more efficiently and effectively manage available resources and adjust for disruptions in a fiscal year.
- **Sage Grouse** – Provides $74 million for sage-grouse conservation.
- **Long Bridge Project** – Permits the National Park Service to convey lands for purposes of transportation and recreation for the Long Bridge project.
- **1908 Springfield Race Riot Site** – Authorizes the Secretary of the Interior to conduct a special resource study of areas associated with the 1908 Springfield Race Riot, which Secretary Bernhardt proclaimed as part of the African American Civil Rights Network on Aug. 21, 2020, and make recommendations on its possible inclusion as a unit of the National Park System.
- **New River Gorge National Park and Preserve Designation** – Redesignates the New River Gorge National River in West Virginia as the "New River Gorge National Park and Preserve" totaling approximately 7,021 acres expanding recreational access.

 Read More: [President Trump Signs Omnibus Spending and COVID Relief Bill, Uplifting American Families, Investing in American Infrastructure and Enhancing American Conservation]

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Executive Order on Improving Price and Quality Transparency in American Healthcare

On Tuesday, December 29, the D.C. Circuit Court of Appeals affirmed a signature initiative of the Trump Administration, which ensures that American patients have access to the hospital pricing information they need when they need it, beginning January 1.

President Donald J. Trump: **Because of the Trump Administration, hospitals are now required, effective immediately, to publish their REAL PROCES, which will create competition and drive downs costs MASSIVELY. Won lawsuit last week. Bigger than healthcare, it's called PRICE TRANSPARENCY.**

HHS Secretary Alex Azar: **Big win for American patients today. The DC Circuit ruling is another major victory for President Trump's transformative healthcare agenda. Starting January 1, Americans will have access to the actual prices paid for the most common hospital services.**

In November 2019, President Trump signed an **Executive Order** on Improving Price and Quality Transparency in American Healthcare. As directed under the Executive Order, the Centers for Medicare & Medicaid Services (CMS) issued two rules that take historic steps to increase price transparency to empower patients and increase competition among all hospitals, group health plans and health insurance issuers in the individual and group markets. One of the rules - **the Calendar Year (CY) 2020 Outpatient Prospective Payment System (OPPS) & Ambulatory Surgical Center (ASC) Price Transparency Requirements for Hospitals to Make Standard Charges Public Final Rule** - requires hospitals to provide patients with clear, accessible information about their "standard charges" for the items and services they provide, including through the use of standardized data elements, making it easier to shop and compare across hospitals, as well as mitigating surprises.

Read More: **Trump Administration Announces Historic Price Transparency Requirements to Increase Competition and Lower Healthcare Costs for All Americans (November 15, 2019)**

Executive Order on Expanding Educational Opportunity Through School Choice

On Monday, December 28, President Trump signed the **Executive Order** on Expanding Educational Opportunity Through School Choice. The Executive Order offers States and eligible entities the flexibility to provide certain disadvantaged children with emergency K-12 scholarships to access in-person learning opportunities.

Image

Under the Executive Order, States and eligible entities may use available Federal Community Service Block Grants (CSBG) funds to provide life-changing scholarships to families whose children cannot access in-person learning. Scholarships provided with CSBG funds can help families pay for private school tuition, home schooling, micro schooling, learning-pod expenses, special education services, or tutoring.

HHS Secretary Alex Azar: **President Trump's executive order will help children and families without access to in-person schooling to secure it with scholarships and other funding mechanisms for private options where public options are not available.**

What You Need To Know: **President Donald J. Trump Is Expanding Educational Opportunity for America's Children and Families Impacted by the Pandemic**

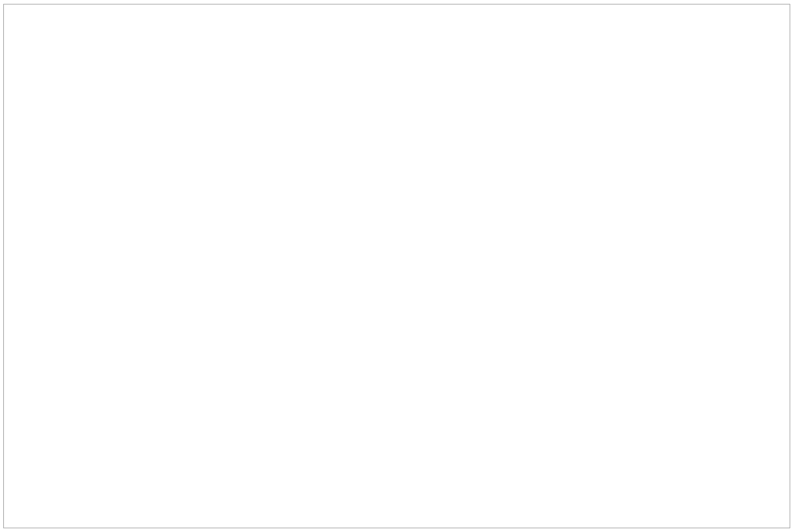
President's Commission on Law Enforcement - Report Released

On December 22, 2020, the President's Commission on Law Enforcement and the Administration of Justice released it's report following months of virtual meetings, testimony and study. This report represents the first comprehensive study of law enforcement in more than 55 years. Read the report **here**.

On October 28, 2019, President Donald J. Trump signed **Executive Order No. 13896**, which directed the Department of Justice to establish the "Commission on Law Enforcement and the Administration of Justice." The purpose of the Commission was to conduct a modern study of the state of American policing and determine specific measures to reduce crime and promote the rule of law. At the

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conclusion of this study, the Commission was to issue a report.

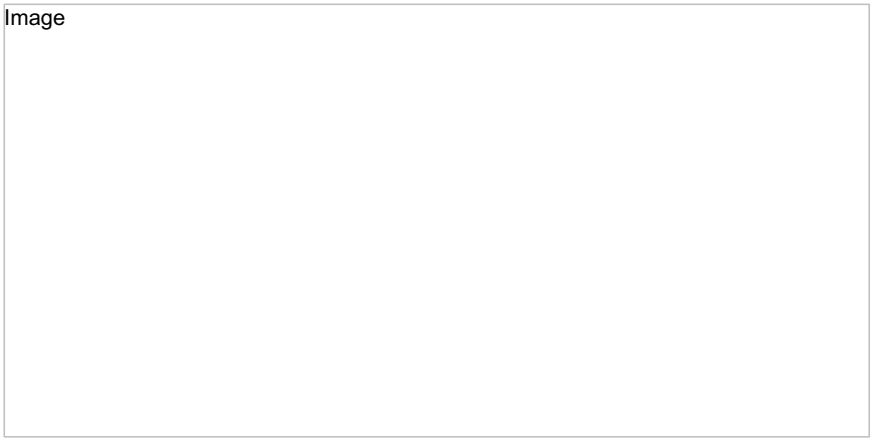


At a ceremony in **January 2020**, Attorney General Barr announced the establishment of the Commission and the individuals who would serve as commissioners. From January through July, the Commission met formally more than 50 times – adjusting to the challenges brought on by the COVID-19 pandemic – with the goal of making improvements to American law enforcement for years to come. Throughout that time, the Commission assembled a report that reviewed a variety of important issues affecting law enforcement and their capacity to safeguard American communities.

Operation Legend - Fighting Violent Crime and Delivering Results

On December 23, Attorney General Barr **announced the results** of Operation Legend, which was first launched in Kansas City, Missouri, on **July 8, 2020**, and then expanded to Chicago and Albuquerque, New Mexico, on **July 22, 2020**; to Cleveland, Ohio, Detroit, Michigan, and Milwaukee, Wisconsin, on **July 29, 2020**; to St. Louis, Missouri, and Memphis, Tennessee, on **August 6, 2020**; and to Indianapolis, Indiana, on **August 14, 2020**.

Since Operation Legend's launch on July 8, 2020, over 6,000 arrests – including approximately 467 for homicide – were made; more than 2600 firearms were seized; and more than 32 kilos of heroin, more than 17 kilos of fentanyl, more than 300 kilos of methamphetamine, more than 135 kilos of cocaine, and more than $11 million in drug and other illicit proceeds were seized.



Of the more than 6,000 individuals arrested, approximately 1,500 have been charged with federal offenses. Approximately 815 of those defendants have been charged with firearms offenses, while approximately 566 have been charged with drug-related crimes. The remaining defendants have been charged with various offenses.

The Attorney General launched the operation as a sustained, systematic and coordinated law enforcement initiative in which federal law enforcement agencies work in conjunction with state and local law enforcement officials to fight violent crime. Operation Legend is named in honor of four-year-old LeGend Taliferro, who was shot and killed while he slept early in the morning of June 29 in Kansas City.

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- CDC **published** a COVID-19 vaccination playbook for jurisdictions in September, and has been working with them on their vaccination plans ever since -OWS is providing jurisdictions kits with the needed needles, syringes, and other supplies for vaccinations along with the vaccines
- CDC issued **$200M** to jurisdictions for flu/COVID vaccinations in September -CDC issued another **$140M** to jurisdictions for COVID vaccinations in December
- Across OWS, the DPA has been used 18 times. We have not hesitated to use the DPA, and Secretary Azar has made it clear he'll use every power at his disposal to ramp up vaccine production safely. There are, however, physical and operational limits to safe, quality, vaccine production.
- Vaccines are already free for Americans, thanks to the work of the Trump Administration -HHS has already launched a massive campaign to increase vaccine confidence and encourage uptake
- The first U.S. COVID-19 vaccine authorization was on **December 11** and the first U.S. COVID-19 vaccination was 15 days ago, on **December 14**
- As a reminder, distributing millions of safe and effective vaccines within a year after a novel virus hit our shores is a historic and remarkable accomplishment

☐ **HHS Secretary Alex Azar**: **Operation Warp Speed delivered by the end of 2020**
✔ 2 @US_FDA-authorized vaccines
✔ 5 vaccine candidates in Phase 3 clinical trials
✔ 20 million first doses allocated, with the second doses on hand ready to be shipped a few weeks later.

HHS/DOD Announce Additional Vaccine Procurement: On December 23, the U.S. Department of Health & Human Services and the Department of Defense **announced** the purchase of an additional 100 million doses of COVID-19 vaccine from Pfizer. Pfizer will deliver at least 70 million doses by June 30, 2021 and the full 100 million doses no later than July 31, 2021. On December 11, the Trump Administration **announced** the purchase of an additional 100 million doses of Moderna's COVID-19 vaccine.

CDC Launches COVID-19 Vaccine Data Tracker

The Centers for Disease Control and Prevention launched a vaccination data page with jurisdiction-level data. The page tracks the total number of COVID-19 vaccines administered in the United States. You can find the tracker **here**. Note that data reported to the CDC significantly lags actual vaccinations administered, or as stated by the CDC, "A large difference between the number of doses distributed and the number of doses administered is expected at this point in the COVID vaccination program."

As a reminder, the 64 jurisdictions - which encompasses all 50 States, 8 U.S. territories, and six major metropolitan areas - as well as five federal agencies - including the Indian Health Service, Department of Defense, and Department of Veterans Affairs - are responsible for administering vaccines. Each week, as doses are released by companies for distribution, planes and trucks transport the vaccine to States and jurisdictions across the country. Learn more about the distribution process **here**. Find distribution plans for all 64 jurisdictions **here**, the Indian Health Service **here**, and the Department of Veterans Affairs **here**. Local officials should coordinate with their respective States on any vaccine allocation and/or distribution questions.

5th COVID-19 Vaccine Candidate Begins Phase 3 Clinical Trials

On Monday, December 28, The National Institutes of Health announced that a 5th COVID-19 vaccine candidate funded by NIH began enrollment for its Phase 3 clinical trial. The vaccine, developed by Novavax, will enroll up to 30k volunteers from the U.S. and Mexico.

☐ **HHS Secretary Alex Azar**: **With Phase 3 clinical testing of the Novavax COVID-19 vaccine candidate beginning in the U.S., we have now had five vaccine candidates in the #OperationWarpSpeed portfolio launch Phase 3 clinical trials before the end of 2020.**

The trial is being conducted in collaboration with **Operation Warp Speed** (OWS), a multi-agency collaboration overseen by HHS and the Department of Defense that aims to accelerate development, manufacture and distribution of medical countermeasures for COVID-19. Some of the U.S. trial sites participating are part of the NIAID-supported **COVID-19 Prevention Network** (CoVPN). The CoVPN

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includes existing NIAID-supported clinical research networks with infectious disease expertise and was designed for rapid and thorough evaluation of vaccine candidates and monoclonal antibodies for preventing COVID-19.

Read More: Phase 3 Trial of Novavax Investigational COVID-19 Vaccine Opens

Testing Update

As of Dec. 28, 309 tests and sample collection devices are authorized by the FDA under emergency use authorizations (EUAs). These include 235 molecular tests and sample collection devices, 63 antibody tests, and 11 antigen tests. There are 32 molecular authorizations that can be used with home-collected samples. There is one molecular prescription at-home test, one antigen prescription at-home test, and one over-the-counter (OTC) at-home antigen test.

Admiral Brett Giroir (Assistant Secretary for Health) : We continue to increase the capacity/diversity of #COVID19 testing. in December, we have available > 180 million tests. We have surpassed 2 million tests reported per day on 7 different dats. We have distributed > 122 million #BinaxNOW rapid tests to states and vulnerable.

Additional Updates

Department of Veterans Affairs Vaccine Update: During the week of December 20, the Department of Veterans Affairs (VA) announced the expansion of its COVID-19 vaccination program to an additional 128 sites. On December 31, Secretary Robert Wilkie announced that the VA has administered initial COVID-19 vaccine doses to more than 5,000 veterans residing in its Community Living Centers and Spinal Cord Injury and Disorders Centers and more than 50,000 health care employees. Learn more about COVID-19 vaccines and the VA here.

SBA Extends COVID-19 Economic Injury Disaster Loan Application Deadline: On December 30, 2020, the U.S. Small Business Administration announced that the deadline to apply for the Economic Injury Disaster Loan (EIDL) program for the COVID-19 pandemic disaster declaration is extended through December 31, 2021. To date, the SBA has approved $197 billion in low-interest loans which provides working capital funds to small businesses, non-profits and agricultural businesses make it through this challenging time.

The Doctor Is In: U.S. Surgeon General Jerome Adams released a new video answering a common COVID-19 question – how many shots of the vaccine are needed? Over the next few weeks, the Surgeon General will be releasing videos answering the most common COVID-19 questions.

Vaccine Surveillance: FDA Commissioner Dr. Stephen Hahn explains in a new video how all vaccines, including the COVID-19 vaccines, must adhere to specific FDA guidelines for safety, including ongoing surveillance.

Colleges, Universities, and Higher Learning: CDC updated information for colleges and universities to plan, prepare, and respond to COVID-19.

Considerations for Retirement Communities and Independent Living Facilities: CDC updated information on preventing the spread of COVID-19 in retirement communities and independent living facilities.

Considerations for Community-Based Organizations: As some community-based organizations (CBOs) begin to resume or increase their level of activities, CDC offers the following considerations for ways these organizations can help protect individuals and communities and slow the spread of COVID-19.

Frequently Asked Questions about COVID-19 Vaccination: CDC updated FAQS about COVID-19 vaccination.

Federal Appropriations, COVID-19 Relief Bills Signed

On December 27, 2020, President Trump signed into law the Consolidated Appropriations Act of 2021, providing $1.4 trillion for the fiscal year ending September 30, 2021. In addition to funding the Federal government, the act delivers coronavirus emergency response and relief.

With the signing, the President released the following statement:

I will sign the Omnibus and Covid package with a strong message that makes clear to Congress that wasteful items need to be removed. I will send back to Congress a redlined version, item by item, accompanied by the formal rescission request to Congress insisting that those funds be removed from the bill

I am signing this bill to restore unemployment benefits, stop evictions, provide rental assistance, add money for PPP, return our airline workers back to work, add substantially more money for vaccine distribution, and much more.

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 Read More: [Statement from the President]

Treasury and IRS Begin Delivering the Second Round of Economic Impact Payments to Millions of Americans

The Treasury Department and the Internal Revenue Service will begin delivering a second round of Economic Impact Payments to millions of Americans as part of the implementation of the Coronavirus Response and Relief Supplemental Appropriations Act of 2021. The initial direct deposit payments began arriving as early as December 29 for some and will continue this week. Paper checks began to be mailed on Wednesday, December 30. This second round of payments will provide critical economic support to those who, through no fault of their own, have been adversely impacted by the COVID-19 pandemic.

Eligible individuals will receive an Economic Impact Payment of up to $600 for individuals or $1200 for married couples and up to $600 for each qualifying child. Generally, if you have adjusted gross income for 2019 up to $75,000 for individuals and up to $150,000 for married couples filing joint returns and surviving spouses, you will receive the full amount of the second payment. For filers with income above those amounts, the payment amount is reduced.

This second round of payments will be distributed automatically, with no action required for eligible individuals. If additional legislation is enacted to provide for an increased amount, Economic Impact Payments that have been issued will be topped up as quickly as possible.

The swift issuance of this second round of payments follows the successful delivery of more than $270 billion in CARES Act Economic Impact Payments earlier this year, providing crucial economic support to nearly 160 million Americans.

Eligible individuals may check the status of payments at **IRS.gov/GetMyPayment**. For more information about Economic Impact Payments, please visit **IRS.gov/EIP**.

 Read More: [Treasury and IRS Begin Delivering the Second Round of Economic Impact Payments to Millions of Americans]

Appropriations Bill Enhances Conservation, Outdoor Recreation & Wildfire Prevention

President Trump has made enhancing our nation's conservation initiatives a top priority, signing several historic conservation bills, including the John D. Dingell, Jr. Conservation, Management, and Recreation Act and the Great American Outdoors Act. Unlike other Administration's before it, the Trump Administration succeeded in enacting permanent full and mandatory funding for the Land and Water Conservation Fund and put in place funding to address the long discussed but never solved the problem of the maintenance backlog at our national parks and other public lands. The President also opened or expanded 4 million acres of land to new hunting and fishing opportunities, recovered the most endangered or threatened species in history for the first term of an Administration and treated 5.4 million acres of land to prevent wildfires – a 49 percent increase in comparison to the last 4 years of the previous Administration.

Here are some notable highlights in the Consolidated Appropriations Act of 2021 that Interior supported to improve conservation:

- **Great American Outdoors Act** – Provides full funding through the National Parks and Public Land Legacy Restoration Fund for priority projects addressing the maintenance backlog at national parks, wildlife refuges, public lands and American Indian schools and full funding through the Land and Water Conservation Fund to protect and conserve lands and waters across the country as identified by Interior.
- **Wildfire Management** – Provides $992.6 million ($40.3 million more than 2020) for Interior wildfire management activities, including fire preparedness, fire suppression, fuels management, burned-area rehabilitation, fire facilities and fire science, in addition to $310 million ($10 million more than 2020) for the Wildfire Suppression Operations Reserve Fund. The funding would allow Interior to provide grants to train non-Federal fire departments and similar groups to fight wildfires.
- **National Recreation and Preservation** – Provides two-year funding for the National Recreation and Preservation Account, allowing the National Park Service to more efficiently and effectively manage available resources and adjust for disruptions in a fiscal year.
- **Sage Grouse** – Provides $74 million for sage-grouse conservation.
- **Long Bridge Project** – Permits the National Park Service to convey lands for purposes of transportation and recreation for the Long Bridge project.
- **1908 Springfield Race Riot Site** – Authorizes the Secretary of the Interior to conduct a special resource study of areas associated with the 1908 Springfield Race Riot, which Secretary Bernhardt proclaimed as part of the African American Civil Rights Network on Aug. 21, 2020, and make recommendations on its possible inclusion as a unit of the National Park System.
- **New River Gorge National Park and Preserve Designation** – Redesignates the New River Gorge National River in West Virginia as the "New River Gorge National Park and Preserve" totaling approximately 7,021 acres expanding recreational access.

 Read More: [President Trump Signs Omnibus Spending and COVID Relief Bill, Uplifting American Families, Investing in American Infrastructure and Enhancing American Conservation]

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Executive Order on Improving Price and Quality Transparency in American Healthcare

On Tuesday, December 29, the D.C. Circuit Court of Appeals affirmed a signature initiative of the Trump Administration, which ensures that American patients have access to the hospital pricing information they need when they need it, beginning January 1.

President Donald J. Trump: **Because of the Trump Administration, hospitals are now required, effective immediately, to publish their REAL PROCES, which will create competition and drive downs costs MASSIVELY. Won lawsuit last week. Bigger than healthcare, it's called PRICE TRANSPARENCY.**

HHS Secretary Alex Azar: **Big win for American patients today. The DC Circuit ruling is another major victory for President Trump's transformative healthcare agenda. Starting January 1, Americans will have access to the actual prices paid for the most common hospital services.**

In November 2019, President Trump signed an **Executive Order** on Improving Price and Quality Transparency in American Healthcare. As directed under the Executive Order, the Centers for Medicare & Medicaid Services (CMS) issued two rules that take historic steps to increase price transparency to empower patients and increase competition among all hospitals, group health plans and health insurance issuers in the individual and group markets. One of the rules - **the Calendar Year (CY) 2020 Outpatient Prospective Payment System (OPPS) & Ambulatory Surgical Center (ASC) Price Transparency Requirements for Hospitals to Make Standard Charges Public Final Rule** - requires hospitals to provide patients with clear, accessible information about their "standard charges" for the items and services they provide, including through the use of standardized data elements, making it easier to shop and compare across hospitals, as well as mitigating surprises.

Read More: **Trump Administration Announces Historic Price Transparency Requirements to Increase Competition and Lower Healthcare Costs for All Americans (November 15, 2019)**

Executive Order on Expanding Educational Opportunity Through School Choice

On Monday, December 28, President Trump signed the **Executive Order** on Expanding Educational Opportunity Through School Choice. The Executive Order offers States and eligible entities the flexibility to provide certain disadvantaged children with emergency K-12 scholarships to access in-person learning opportunities.

Image

Under the Executive Order, States and eligible entities may use available Federal Community Service Block Grants (CSBG) funds to provide life-changing scholarships to families whose children cannot access in-person learning. Scholarships provided with CSBG funds can help families pay for private school tuition, home schooling, micro schooling, learning-pod expenses, special education services, or tutoring.

HHS Secretary Alex Azar: **President Trump's executive order will help children and families without access to in-person schooling to secure it with scholarships and other funding mechanisms for private options where public options are not available.**

What You Need To Know: **President Donald J. Trump Is Expanding Educational Opportunity for America's Children and Families Impacted by the Pandemic**

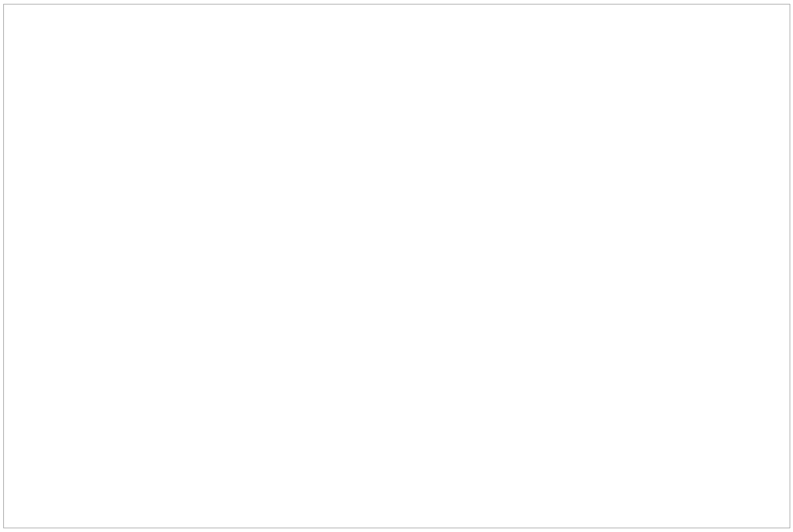
President's Commission on Law Enforcement - Report Released

On December 22, 2020, the President's Commission on Law Enforcement and the Administration of Justice released it's report following months of virtual meetings, testimony and study. This report represents the first comprehensive study of law enforcement in more than 55 years. Read the report **here**.

On October 28, 2019, President Donald J. Trump signed **Executive Order No. 13896**, which directed the Department of Justice to establish the "Commission on Law Enforcement and the Administration of Justice." The purpose of the Commission was to conduct a modern study of the state of American policing and determine specific measures to reduce crime and promote the rule of law. At the

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conclusion of this study, the Commission was to issue a report.

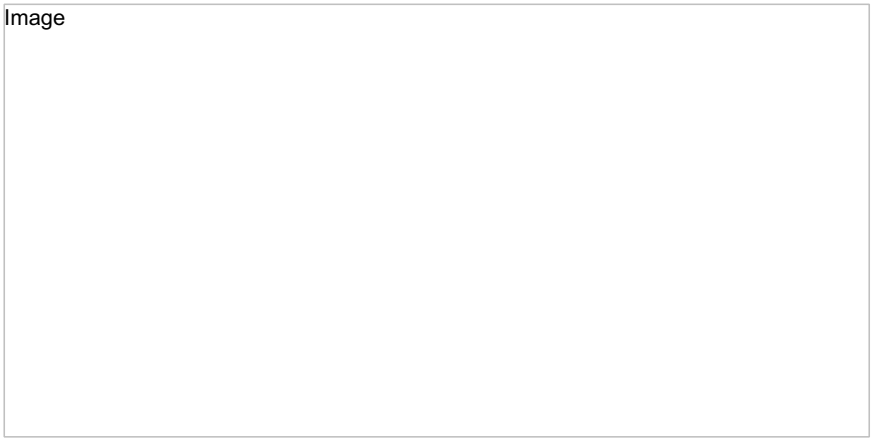


At a ceremony in **January 2020**, Attorney General Barr announced the establishment of the Commission and the individuals who would serve as commissioners. From January through July, the Commission met formally more than 50 times – adjusting to the challenges brought on by the COVID-19 pandemic – with the goal of making improvements to American law enforcement for years to come. Throughout that time, the Commission assembled a report that reviewed a variety of important issues affecting law enforcement and their capacity to safeguard American communities.

Operation Legend - Fighting Violent Crime and Delivering Results

On December 23, Attorney General Barr **announced the results** of Operation Legend, which was first launched in Kansas City, Missouri, on **July 8, 2020**, and then expanded to Chicago and Albuquerque, New Mexico, on **July 22, 2020**; to Cleveland, Ohio, Detroit, Michigan, and Milwaukee, Wisconsin, on **July 29, 2020**; to St. Louis, Missouri, and Memphis, Tennessee, on **August 6, 2020**; and to Indianapolis, Indiana, on **August 14, 2020**.

Since Operation Legend's launch on July 8, 2020, over 6,000 arrests – including approximately 467 for homicide – were made; more than 2600 firearms were seized; and more than 32 kilos of heroin, more than 17 kilos of fentanyl, more than 300 kilos of methamphetamine, more than 135 kilos of cocaine, and more than $11 million in drug and other illicit proceeds were seized.



Of the more than 6,000 individuals arrested, approximately 1,500 have been charged with federal offenses. Approximately 815 of those defendants have been charged with firearms offenses, while approximately 566 have been charged with drug-related crimes. The remaining defendants have been charged with various offenses.

The Attorney General launched the operation as a sustained, systematic and coordinated law enforcement initiative in which federal law enforcement agencies work in conjunction with state and local law enforcement officials to fight violent crime. Operation Legend is named in honor of four-year-old LeGend Taliferro, who was shot and killed while he slept early in the morning of June 29 in Kansas City.

Unsubscribe

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NM-OTERO-21-0275-A-000150

From: Denise Robles <deniseluciarobles@gmail.com>
Sent: Tuesday, January 12, 2021 1:45 AM EST
To: yvette@yvetteherrell.com <yvette@yvetteherrell.com>; steve@gopnm.org <steve@gopnm.org>
CC: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>; jpaxon@sierraco.org <jpaxon@sierraco.org>; Glenn Hamilton <ghamilton@sierraco.org>
Subject: Trump campaign files motion to dismiss NM election lawsuit | KOB 4

https://www.kob.com/new-mexico-news/trump-campaign-files-motion-to-dismiss-nm-election-lawsuit/5974604/

Little late since your supporters have assaulted Congress and 5 people are dead. Shame on you.

AMERICAN OVERSIGHT

From: Denise Robles <deniseluciarobles@gmail.com>
Sent: Sunday, January 03, 2021 2:29 PM EST
To: yvette@yvetteherrell.com <yvette@yvetteherrell.com>
CC: jpaxon@sierraco.org <jpaxon@sierraco.org>; cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>; Glenn Hamilton <ghamilton@sierraco.org>
Subject: Trump pressures Georgia's Raffensperger to overturn his defeat in extraordinary call - The Washington Post

https://www.washingtonpost.com/politics/trump-raffensperger-call-georgia-vote/2021/01/03/d45acb92-4dc4-11eb-bda4-615aaefd0555_story.html

This is who you are pandering to in a disgusting display of cynical self interest. So who is it again trying to STEAL and election?

DLR

AMERICAN OVERSIGHT

From: Denise Robles <deniseluciarobles@gmail.com>
Sent: Sunday, January 03, 2021 2:29 PM EST
To: yvette@yvetteherrell.com <yvette@yvetteherrell.com>
CC: jpaxon@sierraco.org <jpaxon@sierraco.org>; cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>; Glenn Hamilton <ghamilton@sierraco.org>
Subject: Trump pressures Georgia's Raffensperger to overturn his defeat in extraordinary call - The Washington Post

https://www.washingtonpost.com/politics/trump-raffensperger-call-georgia-vote/2021/01/03/d45acb92-4dc4-11eb-bda4-615aaefd0555_story.html

This is who you are pandering to in a disgusting display of cynical self interest. So who is it again trying to STEAL and election?

DLR

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From: Abelson, Jenn <Jenn.Abelson@washpost.com>
Sent: Saturday, January 09, 2021 6:18 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Washington Post request

Hi Mr. Griffin
I'm a reporter with the Washington Post and I'm writing about people who attended the protest and wanted to speak with you about your experience along with your thoughts on the recent Twitter ban. Do you have a couple minutes to connect tonight?

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From: Clinton Beevers <9855hcb@gmail.com>
Sent: Wednesday, January 13, 2021 8:29 AM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Who do you think you are, trump is a COWARDLY republican Communist Dictator You don't have the right to exist..

,

AMERICAN OVERSIGHT

From: David Prescott <prescottdavidp@gmail.com>
Sent: Sunday, January 10, 2021 10:48 AM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: your abysmal action in DC last Wed

Your actions in Washington, DC were nothing less than treasonous. They deserve nothing but condemnation. Your resignation from your position in the county is demanded as you pose a danger to our state.

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From: dldewey@aol.com <dldewey@aol.com>
Sent: Saturday, January 09, 2021 2:22 PM EST
To: dldewey@aol.com <dldewey@aol.com>
Subject: 8 Senators, 139 House Reps who vote to throw out 188 million American votes for Donald Trump - Remember these people and vote them out of office.
Attachment(s): "HouseRepTraitors.2020 Election..pdf"

Below are pictures and names of the (8) Senators who voted to throw out 188 million American votes of the 2020 election for Donald Trump. Remember these people and vote them out office in 2022, 2024 and 2026. They are a disgrace to what American stands for.

Attached is a .pdf listing 139 House of Representatives also who also voted to throw out 188 million American votes of the 2020 election for Donald Trump. Remember these people also and vote them out of office in 2022 and 2024.

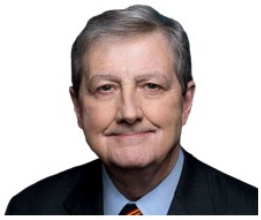
Please send these to everyone you know, these people need to be removed from office for their betrayal to all Americans, not to mention their constituents in their districts.

These (8) U.S. Senators voted to throw out a 188 million American votes of the 2020 election for Donald Trump. Remember these people and vote them out of office in 2022. They are a disgrace to what America stands for.


Tommy Tuberville, Ala.


Rick Scott, Fla.


Roger Marshall, Kan.


John Kennedy, La.


Cindy Hyde-Smith, Miss.


Josh Hawley, Mo.


Ted Cruz, Texas


Cynthia Lummis, Wyo.

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These 139 House Members voted to throw out 188 million American votes in the 2020 election for Donald Trump. Remember these people in 2022 and vote them out of office. They are a disgrace to what America stands for. They are listed by state. Send this to everyone you know.


Robert B. Aderholt, Ala.


Mo Brooks, Ala.


Jerry Carl, Ala.


Barry Moore, Ala.


Gary Palmer, Ala.


Mike Rogers, Ala.


Andy Biggs, Ariz.


Paul Gosar, Ariz.


Debbie Lesko, Ariz.

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David Schweikert, Ariz.



Rick Crawford, Ark.



Ken Calvert, Calif.



Mike Garcia, Calif.



Darrell Issa, Calif.



Doug LaMalfa, Calif.



Kevin McCarthy, Calif.



Devin Nunes, Calif.



Jay Obernolte, Calif.



Lauren Boebert, Colo.



Doug Lamborn, Colo.



Kat Cammack, Fla.

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Mario Diaz-Balart, Fla.



Byron Donalds, Fla.



Neal Dunn, Fla.



Scott Franklin, Fla.



Matt Gaetz, Fla.



Carlos Gimenez, Fla.



Brian Mast, Fla.



Bill Posey, Fla.



John Rutherford, Fla.



Greg Steube, Fla.



Daniel Webster, Fla.



Rick Allen, Ga.

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Earl L. "Buddy" Carter, Ga.


Andrew Clyde, Ga.


Marjorie Taylor Greene, Ga.


Jody Hice, Ga.


Barry Loudermilk, Ga.


Russ Fulcher, Idaho


Mike Bost, Ill


Mary Miller, Ill.


Jim Baird, Ind.


Jim Banks, Ind.


Greg Pence, Ind.


Jackie Walorski, Ind.

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Ron Estes, Kan.


Jacob LaTurner, Kan.


Tracey Mann, Kan.


Harold Rogers, Ky.


Garret Graves, La.


Clay Higgins, La.


Mike Johnson, La.


Steve Scalise, La.


Andy Harris, Md.

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Jack Bergman, Mich.


Lisa McClain, Mich.


Tim Walberg, Mich.


Michelle Fischbach, Minn.


Jim Hagedorn, Minn.


Michael Guest, Miss.


Trent Kelly, Miss.


Steven Palazzo, Miss.


Sam Graves, Mo.


Vicky Hartzler, Mo.


Billy Long, Mo.


Blaine Luetkemeyer, Mo.

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Jason Smith, Mo.



Matt Rosendale, Mont.



Dan Bishop, N.C.



Ted Budd, N.C.



Madison Cawthorn, N.C.



Virginia Foxx, N.C.



Richard Hudson, N.C.



Gregory F. Murphy, N.C.



David Rouzer, N.C.

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Jeff Van Drew, N.J.



Yvette Herrell, N.M.



Chris Jacobs, N.Y.



Nicole Malliotakis, N.Y.



Elise M. Stefanik, N.Y.



Lee Zeldin, N.Y.



Adrian Smith, Neb.



Steve Chabot, Ohio



Warren Davidson, Ohio



Bob Gibbs, Ohio



Bill Johnson, Ohio



Jim Jordan, Ohio

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Stephanie Bice, Okla.


Tom Cole, Okla.


Kevin Hern, Okla.


Frank Lucas, Okla.


Markwayne Mullin, Okla.


Cliff Bentz, Ore.


John Joyce, Pa.


Fred Keller, Pa.


Mike Kelly, Pa.

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Daniel Meuser, Pa.


Scott Perry, Pa.


Guy Reschenthaler, Pa.


Lloyd Smucker, Pa.


Glenn Thompson, Pa.


Jeff Duncan, S.C.

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Ralph Norman, S.C.


Tom Rice, S.C.


William Timmons, S.C.


Joe Wilson, S.C.


Tim Burchett, Tenn


Scott DesJarlais, Tenn.


Chuck Fleischmann, Tenn.


Mark E. Green, Tenn.


Diana Harshbarger, Tenn.


David Kustoff, Tenn.


John Rose, Tenn.


Jodey Arrington, Texas

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Brian Babin, Texas



Michael C. Burgess, Texas



John R. Carter, Texas



Michael Cloud, Texas



Pat Fallon, Texas



Louie Gohmert, Texas



Lance Gooden, Texas



Ronny Jackson, Texas



Troy Nehls, Texas



August Pfluger, Texas



Pete Sessions, Texas



Beth Van Duyne, Texas

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Randy Weber, Texas


Roger Williams, Texas


Ron Wright, Texas


Burgess Owens, Utah


Chris Stewart, Utah


Ben Cline, Va.


Bob Good, Va.


Morgan Griffith, Va.


Robert J. Wittman, Va.


Carol Miller, W.Va.


Alexander X. Mooney, W.Va.


Scott Fitzgerald, Wis.

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Tom Tiffany, Wis.

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These 139 House Members voted to throw out 188 million American votes in the 2020 election for Donald Trump. Remember these people in 2022 and vote them out of office. They are a disgrace to what America stands for. They are listed by state. Send this to everyone you know.


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Jerry Carl, Ala.


Barry Moore, Ala.


Gary Palmer, Ala.


Mike Rogers, Ala.


Andy Biggs, Ariz.


Paul Gosar, Ariz.


Debbie Lesko, Ariz.

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David Schweikert, Ariz.


Rick Crawford, Ark.


Ken Calvert, Calif.


Mike Garcia, Calif.


Darrell Issa, Calif.


Doug LaMalfa, Calif.


Kevin McCarthy, Calif.


Devin Nunes, Calif.


Jay Obernolte, Calif.


Lauren Boebert, Colo.


Doug Lamborn, Colo.


Kat Cammack, Fla.

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Mario Diaz-Balart, Fla.



Byron Donalds, Fla.



Neal Dunn, Fla.



Scott Franklin, Fla.



Matt Gaetz, Fla.



Carlos Gimenez, Fla.



Brian Mast, Fla.



Bill Posey, Fla.



John Rutherford, Fla.



Greg Steube, Fla.



Daniel Webster, Fla.



Rick Allen, Ga.

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Andrew Clyde, Ga.


Marjorie Taylor Greene, Ga.


Jody Hice, Ga.


Barry Loudermilk, Ga.


Russ Fulcher, Idaho


Mike Bost, Ill


Mary Miller, Ill.


Jim Baird, Ind.


Jim Banks, Ind.


Greg Pence, Ind.


Jackie Walorski, Ind.

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Ron Estes, Kan.


Jacob LaTurner, Kan.


Tracey Mann, Kan.


Harold Rogers, Ky.


Garret Graves, La.


Clay Higgins, La.


Mike Johnson, La.


Steve Scalise, La.


Andy Harris, Md.

AMERICAN OVERSIGHT


Jack Bergman, Mich.


Lisa McClain, Mich.


Tim Walberg, Mich.


Michelle Fischbach, Minn.


Jim Hagedorn, Minn.


Michael Guest, Miss.


Trent Kelly, Miss.


Steven Palazzo, Miss.


Sam Graves, Mo.


Vicky Hartzler, Mo.


Billy Long, Mo.


Blaine Luetkemeyer, Mo.

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Jason Smith, Mo.



Matt Rosendale, Mont.



Dan Bishop, N.C.



Ted Budd, N.C.



Madison Cawthorn, N.C.



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Carol Miller, W.Va.


Alexander X. Mooney, W.Va.


Scott Fitzgerald, Wis.

AMERICAN OVERSIGHT


Tom Tiffany, Wis.

AMERICAN OVERSIGHT

From: dldewey@aol.com <dldewey@aol.com>
Sent: Saturday, January 09, 2021 2:22 PM EST
To: dldewey@aol.com <dldewey@aol.com>
Subject: 8 Senators, 139 House Reps who vote to throw out 188 million American votes for Donald Trump - Remember these people and vote them out of office.
Attachment(s): "HouseRepTraitors.2020 Election..pdf"

Below are pictures and names of the (8) Senators who voted to throw out 188 million American votes of the 2020 election for Donald Trump. Remember these people and vote them out office in 2022, 2024 and 2026. They are a disgrace to what American stands for.

Attached is a .pdf listing 139 House of Representatives also who also voted to throw out 188 million American votes of the 2020 election for Donald Trump. Remember these people also and vote them out of office in 2022 and 2024.

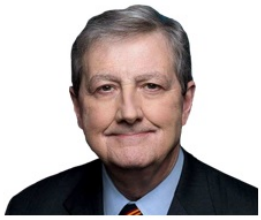
Please send these to everyone you know, these people need to be removed from office for their betrayal to all Americans, not to mention their constituents in their districts.

These (8) U.S. Senators voted to throw out a 188 million American votes of the 2020 election for Donald Trump. Remember these people and vote them out of office in 2022. They are a disgrace to what America stands for.


Tommy Tuberville, Ala.


Rick Scott, Fla.


Roger Marshall, Kan.


John Kennedy, La.


Cindy Hyde-Smith, Miss.


Josh Hawley, Mo.


Ted Cruz, Texas


Cynthia Lummis, Wyo.

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These 139 House Members voted to throw out 188 million American votes in the 2020 election for Donald Trump. Remember these people in 2022 and vote them out of office. They are a disgrace to what America stands for. They are listed by state. Send this to everyone you know.


Robert B. Aderholt, Ala.


Mo Brooks, Ala.


Jerry Carl, Ala.


Barry Moore, Ala.


Gary Palmer, Ala.


Mike Rogers, Ala.


Andy Biggs, Ariz.


Paul Gosar, Ariz.


Debbie Lesko, Ariz.

AMERICAN OVERSIGHT



David Schweikert, Ariz.



Rick Crawford, Ark.



Ken Calvert, Calif.



Mike Garcia, Calif.



Darrell Issa, Calif.



Doug LaMalfa, Calif.



Kevin McCarthy, Calif.



Devin Nunes, Calif.



Jay Obernolte, Calif.



Lauren Boebert, Colo.



Doug Lamborn, Colo.



Kat Cammack, Fla.

AMERICAN OVERSIGHT



Mario Diaz-Balart, Fla.



Byron Donalds, Fla.



Neal Dunn, Fla.



Scott Franklin, Fla.



Matt Gaetz, Fla.



Carlos Gimenez, Fla.



Brian Mast, Fla.



Bill Posey, Fla.



John Rutherford, Fla.



Greg Steube, Fla.



Daniel Webster, Fla.



Rick Allen, Ga.

AMERICAN OVERSIGHT


Earl L. "Buddy" Carter, Ga.


Andrew Clyde, Ga.


Marjorie Taylor Greene, Ga.


Jody Hice, Ga.


Barry Loudermilk, Ga.


Russ Fulcher, Idaho


Mike Bost, Ill


Mary Miller, Ill.


Jim Baird, Ind.


Jim Banks, Ind.


Greg Pence, Ind.


Jackie Walorski, Ind.

AMERICAN OVERSIGHT


Ron Estes, Kan.


Jacob LaTurner, Kan.


Tracey Mann, Kan.


Harold Rogers, Ky.


Garret Graves, La.


Clay Higgins, La.


Mike Johnson, La.


Steve Scalise, La.


Andy Harris, Md.

AMERICAN OVERSIGHT


Jack Bergman, Mich.


Lisa McClain, Mich.


Tim Walberg, Mich.


Michelle Fischbach, Minn.


Jim Hagedorn, Minn.


Michael Guest, Miss.


Trent Kelly, Miss.


Steven Palazzo, Miss.


Sam Graves, Mo.


Vicky Hartzler, Mo.


Billy Long, Mo.


Blaine Luetkemeyer, Mo.

AMERICAN OVERSIGHT



Jason Smith, Mo.



Matt Rosendale, Mont.



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Robert J. Wittman, Va.


Carol Miller, W.Va.


Alexander X. Mooney, W.Va.


Scott Fitzgerald, Wis.

AMERICAN OVERSIGHT


Tom Tiffany, Wis.

AMERICAN OVERSIGHT

From: Satin Slider <ottawasatin@gmail.com>
Sent: Friday, January 08, 2021 9:11 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Asshole

Enjoy the cavity search by the FBI, asshat. Hopefully, they are rough about it so blood will run from your orifices!

Show you are more than a mouthpiece and show up in D.C. on the 9th and show everyone how big of man you are. You won't because you are a fucking coward.

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From: U.S. Department of Education <ed.gov@public.govdelivery.com>
Sent: Friday, January 08, 2021 1:13 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Attention Educators and Families! Webinar: Learning in a Pandemic

Attention Educators and Families!

Learning Loss Webinar

Please join the U.S. Department of Education for a discussion on the state of student learning during the pandemic and tools that families and teachers can use to support student learning now. This event will educate parents and teachers on the state of learning today and how you can better support your students during the pandemic.

This forum will review the most updated research on the state of student learning today and share personalized platforms you can utilize to support student learning immediately. Institute for Education Sciences (IES) Director Mark Schneider will moderate a discussion with national leaders in the research field, Stanford's Center for Research on Education Outcomes (CREDO) and NWEA, as they review findings on national learning loss. Then, Assistant Secretary for Planning, Evaluation, and Policy Development (OPEPD) Jim Blew will moderate a discussion on the power of individualized learning platforms with two examples for how to approach personalized learning for your students, Gooru and New Classrooms.*

Event Details:

- Thursday, January 14, 2021 from 5:30 PM to 6:30 PM EST (please note start time and time zone).
- You must RSVP to join the forum. Please use the following link to register: https://www.eventbrite.com/e/learning-in-a-pandemic-resources-to-support-students-registration-134526681927
- Upon successful registration, you will receive an email containing a personalized access link.

We hope you can join us in support of your students.

Respectfully,
Office of Planning, Evaluation, and Policy Development
U.S. Department of Education

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AMERICAN OVERSIGHT

From: dldewey@aol.com <dldewey@aol.com>
Sent: Monday, January 04, 2021 7:17 AM EST
To: dldewey@aol.com <dldewey@aol.com>
Subject: Based on buried negative reactions to the vaccines in drug trials public is unaware of - something to think about !

Based on buried negative reactions to the vaccines in drug trials public is unaware of ! The drug trials were all rushed to quickly ! There are several unknowns only to be found out by people either dying or having serious health effects from the vaccines.

Keep in mind that these vaccines are NOT MADE like normal flu vaccines, they are dealing with the DNA AND RNA of the human immune system.

We really do not know how the human immune system is going to react to these new type of DNA/RNA vaccines for several months, and then it may be too late !

If you remember, the 1976 swine flu pandemic. They rushed out a type new flu vaccine that used a chemical that was later found out to cause many deadly long term health effects, including, Guillain-Barré syndrome, encephalitis, anaphylaxis, brain tumors and cancers. These side effects were white washed in teh clinical trials to speed the approval of the vaccine. It was later found that approxmimately 1,944 people out of every 100,000 people that received the vaccine experienced these deadly and serious health effects and that was low estimates from several major University research hospitals that discovered the health effects to the American Public !

We also know from this period, the younger and older you are that get the vaccines are the ones that experience long term deadly health effects from vaccines. We simply do not know long term how these new type of vaccines that use, change and manipulate the human immune system as these new DNA/RNA vaccines do.

The vaccines were ALL rushed too quickly !

18 U.S. Senators, (nearly all Republican) over 100 House Members, (nearly all Republican) have made millions playing the stock markets on these vaccines based on false anouncements when they would be made available by the White House and Trump himself.... and that includes Trump family members who have cashed in on this cash cow.
Talk about cleaning the swamp out in Washington, it pm;y got deeper over the cash cow vaccine machines.

Something to think about !



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AMERICAN OVERSIGHT

From: Rod Van Dyke <rvandyke65@gmail.com>
Sent: Saturday, January 09, 2021 6:47 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Behavior

Your sedition like behavior is highly offensive and unpatriotic. Stop this idiotic and reckless exhibition. Donald Trump is done. Stick a fork in him. He is done! Our Republic is saved. You and your ilk should stop your threatening and traitor like behavior. What happened at our Nations Capitol was disgusting. It made me sick to my stomach. Get on board with us Dems. Put your guns away and Go With Joe! Ride' 'em cowboy?

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AMERICAN OVERSIGHT

From: Dan Andersen <dcandersen004@gmail.com>
Sent: Sunday, January 10, 2021 12:21 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Blood will flow

Please send directions for spilling blood. Should I bring it in a thermos? Will my blood be spilled? I don't want that. How about womens blood. Menses blood is really clotty.

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Please send directions for spilling blood. Should I bring it in a thermos? Will my blood be spilled? I don't want that. How about womens blood. Menses blood is really clotty.

AMERICAN OVERSIGHT

From: Amy from CivicPlus <dudgeon@civicplus.com>
Sent: Wednesday, January 06, 2021 11:04 AM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: CivicEngage Enhancements | Join the ENGAGEXCHANGE Community

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We are thrilled to share that we've launched a new community for CivicEngage called ENGAGEXCHANGE. Our goal with this community focuses on two key ideas: connection and direction. Both points focus on you, our clients, to create the best solution and the best experience for CivicEngage. Connect to our community to access this central hub of ideas, guidance, tips, and advice.

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Five Clerk Best Practices for Future-Proofing Your Records

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Busting the Backlog. How to Deliver Mobile Solutions at Pace

CivicPlus, 302 South 4th Street, Suite 500, Manhattan, Kansas 66502, 888-228-2233
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AMERICAN OVERSIGHT

From: Billie Sue Patrick <billiesue14@gmail.com>
Sent: Saturday, January 09, 2021 5:15 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Cowboys for Trump

Your public denunciation of the election as a fraud and support for the insurectionists who forced their way into the Capitol with the intent of interfering with the lawful business of Congress make you an embarrassment to New Mexico and unfit for public office. If you want to repeat lies that undermine our electoral process and support efforts to violently subvert the peaceful transition of power, then resign as Commissioner and do so as a private citizen, not as a representative of our state. I support your right to freedom of speech even if your allegations are totally unsubstantiated. However, your words and actions aren't appropriate as a public servant since they reflect badly on all of us.

I have signed a petition for your removal from office, but I encourage you to resign instead. If you are the patriot you claim to be, you will do what's best for the citizens of this state instead of what strokes your ego.

Billie Sue Patrick
Albuquerque, NM

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Albuquerque, NM

AMERICAN OVERSIGHT

From: Denise Robles <deniseluciarobles@gmail.com>
Sent: Thursday, January 07, 2021 9:39 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
CC: steve@gopnm.org <steve@gopnm.org>; yvette@yvetteherrell.com <yvette@yvetteherrell.com>; D'Val Westphal <dwestphal@abqjournal.com>; kmoses@abqjournal.com <kmoses@abqjournal.com>; Jessica Dyer <jdyer@abqjournal.com>; Dan Boyd <dboyd@abqjournal.com>; Dan McKay <dmckay@abqjournal.com>; news@dailylobo.com <news@dailylobo.com>; Elise Kaplan <ekaplan@abqjournal.com>; cheild@abqjournal.com <cheild@abqjournal.com>
Subject: Cowboys for Trump founder praises pro-Trump rioters | KOB 4

https://www.kob.com/new-mexico-news/cowboys-for-trump-founder-praises-pro-trump-rioters/5971373/

I would call you a fool but that is too kind. If you think Trump will pardon you for your asinine behavior WAKE UP! He only cares about himself.

DLR

AMERICAN OVERSIGHT

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Billie Sue Patrick
Albuquerque, NM

AMERICAN OVERSIGHT

From: Rebecca Thompson <becca.jackson@me.com>
Sent: Sunday, January 10, 2021 7:16 AM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Disgusting

Not only have you supported a racist, homophobic, lying disgrace to America you openly admitted to being part of the mob that attacked our nations capitol. Get your ass out of office!! You should be behind bars.

Sent from my iPhone=

AMERICAN OVERSIGHT

From: D.W. <dwdw9988@yahoo.com>
Sent: Sunday, January 10, 2021 3:46 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Do your patriotic duty: Read/watch NEWS, not lies and conspiracy theories. NPR and The NewsHour are free (broadcast + websites). You are anti-American.

AMERICAN OVERSIGHT

From: Anonymousemail <noreply@anonymousemail.me>
Sent: Tuesday, January 12, 2021 11:53 AM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Dumb fuck

This email was sent via **anonymousemail**
To remove this signature and unlock all features go premium
→ New! Join our affiliate program and start **earning money**.

Hey Dumb Fuck,

You are a traitor to our democracy. You are also a domestic terrorist. Crybaby and wannabe dictator donald trump lost fair and squre. HAHAHA! See you around, pussy bigmouth.

ALL HAT, NO CATTLE!

Guidance for

COVID-19 Vaccine Providers

NEW MEXICO DEPARTMENT OF HEALTH

Updated: December 12, 2020

AMERICAN OVERSIGHT

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Preparing for COVID-19 Vaccine – are you ready?

The preparations for immunizing New Mexicans against COVID-19 are underway. This will be an unprecedented statewide effort, and it could never be accomplished without your participation. Thank you!

We are grateful to all the medical providers, nurses, medical assistants, and the staff members who will continue to work tirelessly to make this effort a success.

To help you prepare and to guide you throughout the coming tasks and challenges of receiving, handling, and administering these life-saving vaccines, we have prepared this reference manual.

In it you will find information and resources, as well as many instructional guides that will help orient and support COVID-19 Provider Sites in their preparations to ensure proper vaccine storage and handling, and temperature monitoring.

To help navigate the tasks associated with the actual vaccine inventory management, we have also included important step-by-step information on topics such as vaccine ordering, shipments, and inventory reporting and reconciliation. There are also guides on what to do if vaccine expires, becomes spoiled, or there is vaccine wastage.

We thank you.
We are with you.
We look forward to working together to protect New Mexico against COVID-19.

The New Mexico Department of Health Immunization Program

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Vaccine Storage

On-site purpose-built refrigerator and freezer units are required for the storage of most presentations of COVID-19 vaccines. All vaccine storage **and transport** units must be entered as ***Assets*** in NMSIIS.

Please note: *dormitory-style* refrigerators will ***not*** be approved for vaccine storage. A *dormitory-style* refrigerator is defined as a small combination refrigerator/freezer unit that is outfitted with one exterior door and an evaporator plate (cooling coil), which is usually located inside an icemaker compartment (freezer) within the refrigerator.

The vaccines stored at Ultra-low temperatures – also referred to as ULT or ultra-cold vaccines – have unique handling and storage requirements. Please see the *COVID-19 Vaccine Information* in the appendices for information on ULT vaccine storage and handling and *note that this section does not apply to these special circumstances.*

Adding vaccine storage and transport units as ***Assets*** in NMSIIS

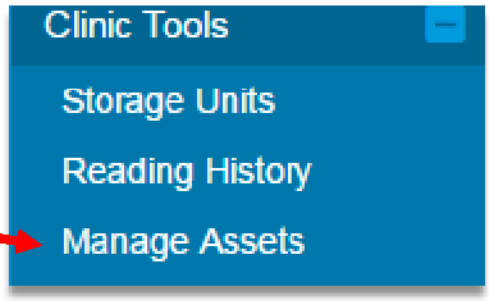
Add a Vaccine Storage Unit (Refrigerator, Freezer, or Transport Unit) in NMSIIS

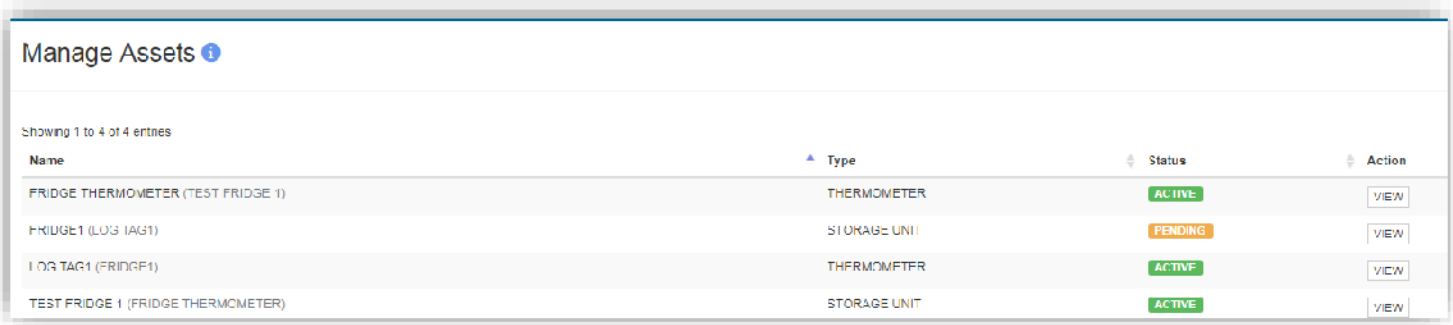
NOTE: Vaccine Transport Coolers must be added as Storage Units

Expand ***Clinic Tools***

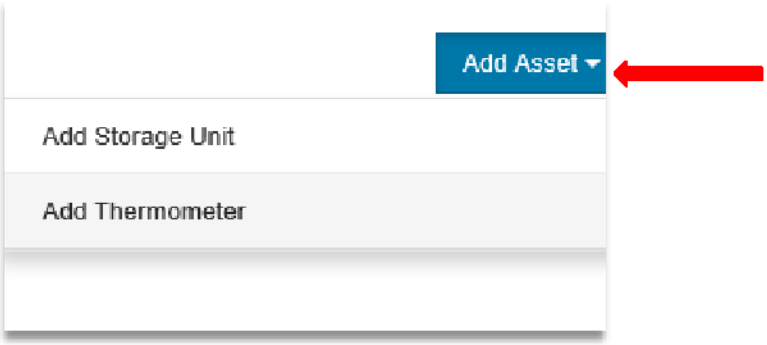
Click ***Manage Assets*** to display a summary of all active/inactive assets associated with the provider or clinic.

The summary list displays the unit name, type (thermometer or storage unit), and current status and looks like this:



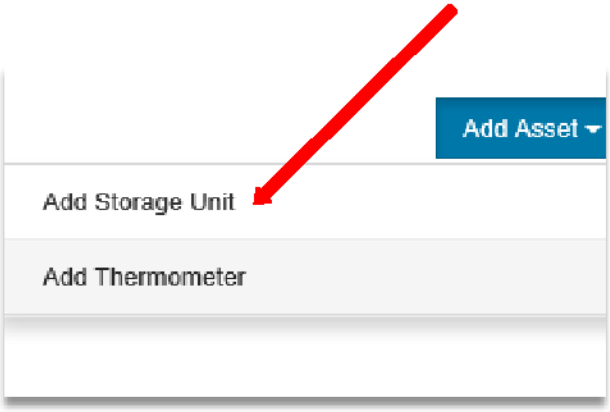


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To add a new asset (storage or transport unit, or thermometer) click the ***Add Asset*** button and on the drop-down select the asset type.

In this case we are adding a refrigerator, freezer, or transport cooler, so we will select ***Add Storage Unit***

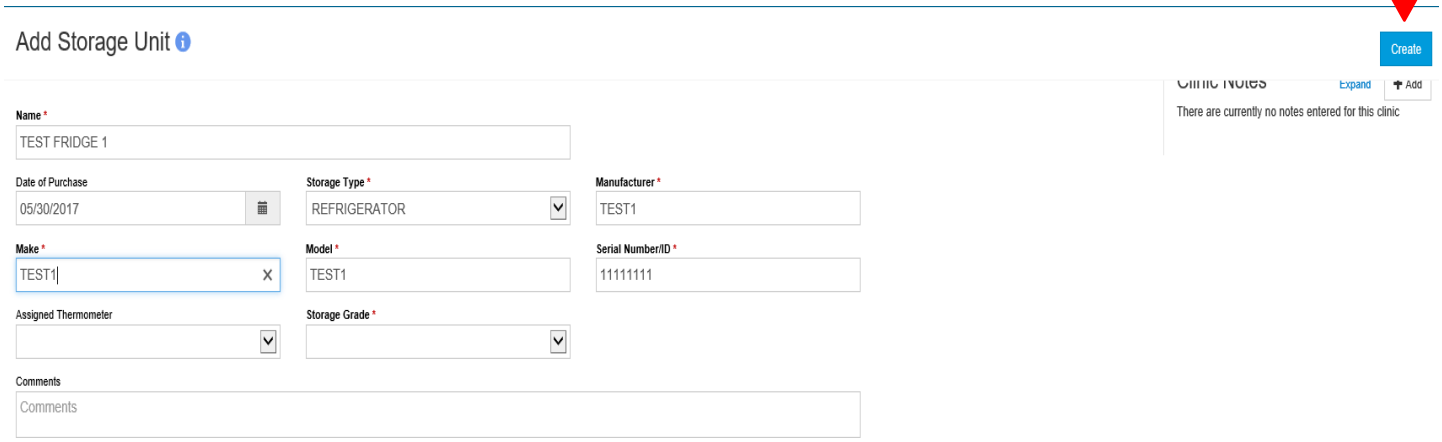


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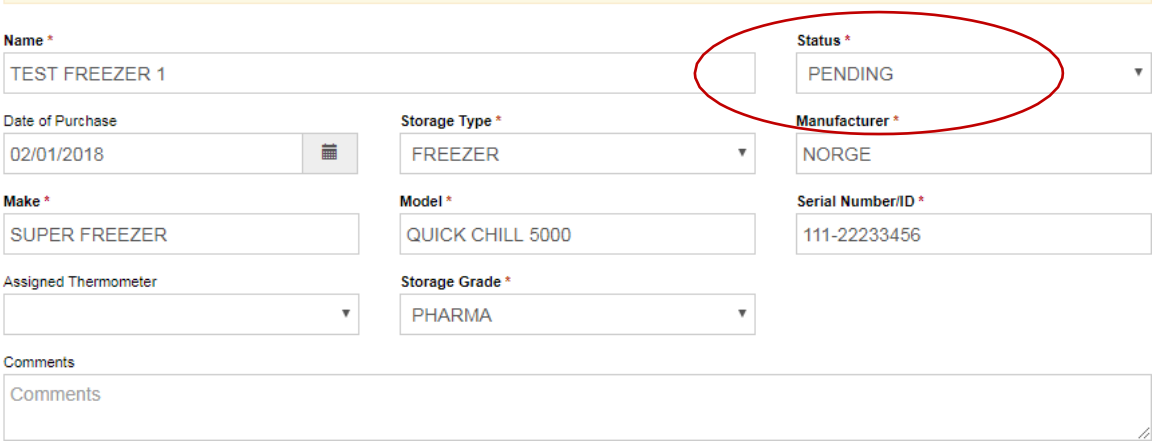
On the ***Add Storage Unit*** page enter all the required information pertaining to the unit you are adding. You can give your storage and transport units any name you wish. It is recommended that each unit have a different and identifiable name. For example, if you have two vaccine refrigerators, they should not both be named “Fridge” in NMSIIS, but rather something like “Fridge One” and “Fridge Two”.

When finished, click the ***Create*** button to save all entered information.

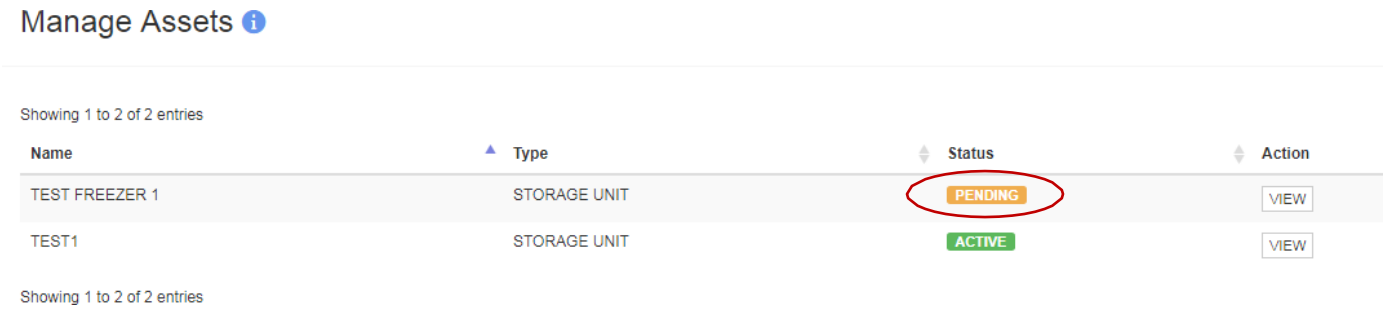
*NOTE: your information will not be saved if the **Create** button is not clicked*



In the ***View Storage Unit*** screen and you will see that the unit status is now “Pending”



The Immunization Program will ***automatically*** receive notification that you have added a storage unit and will then be able to activate it.

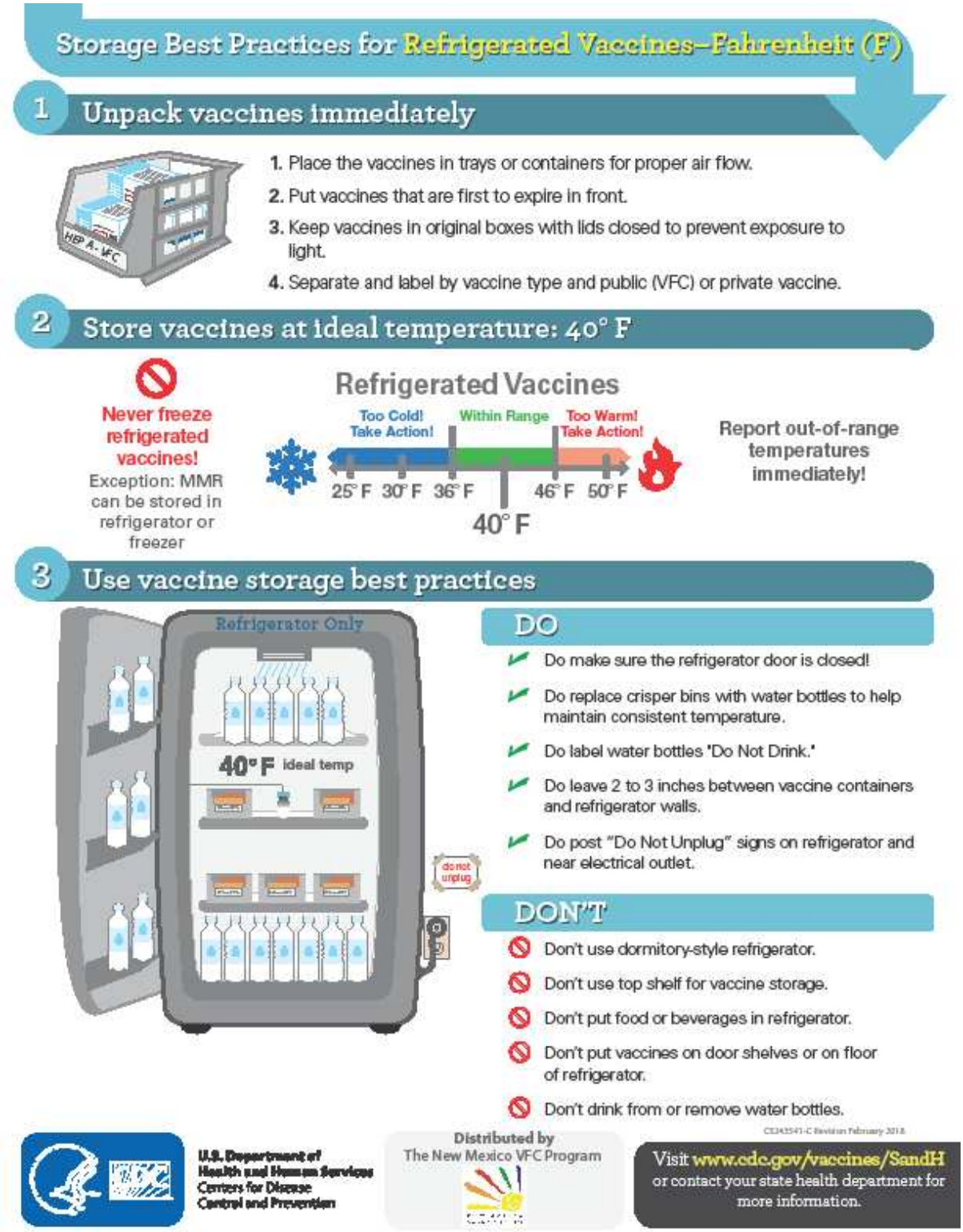


Please ***allow 48 hours*** for your unit to be activated; after 48 hours, check the status of your storage unit/s and if you confirm any are still in a ***Pending*** status (pictured above) please notify the Immunization Program via email at covid.vaccines@state.nm.us

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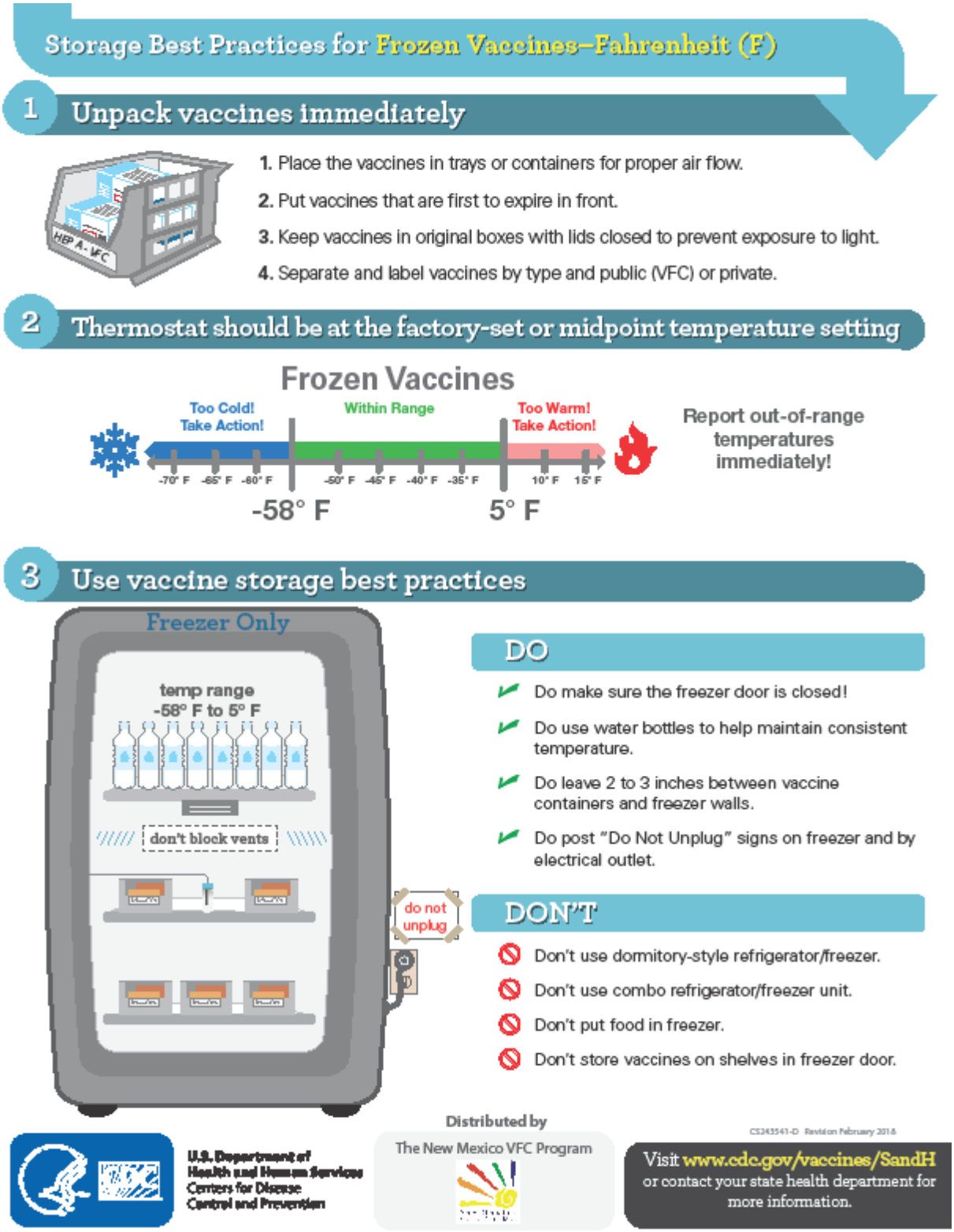
Vaccine Storage Best Practices

Refrigerated vaccine storage **Best Practices**



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Frozen vaccine storage **Best Practices**



NOTE: The vaccines stored at Ultra-low temperatures – also referred to as ULT or ultra-cold vaccines – have unique handling and storage requirements. Please see the Pfizer vaccine guidance in the appendices for detailed information.

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Continuous Temperature Monitoring and Reporting

The ability to ensure continuous temperature monitoring of all presentations of COVID-19 vaccines, regardless of recommended storage temperature range, is a requirement for all participating sites in New Mexico.

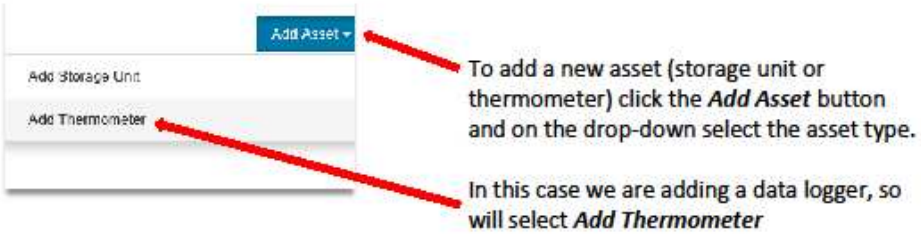
Digital Data Loggers (DDL)

To meet the requirement of continuous temperature monitoring, New Mexico requires the use of digital data loggers on all storage and transport units used for COVID-19 vaccines. These devices must meet CDC requirements and generate temperature files that are compatible with direct upload into NMSIIS. All vaccine DDLs must be entered as ***Assets*** in NMSIIS as shown here:

Add a Thermometer (Data Logger) in NMSIIS

Important: *each vaccine storage unit must have its own thermometer in NMSIIS*





Enter the required information for the new thermometer (all fields with a red*) ***and***:

- **Assigned Storage Unit** - storage units that do not have a thermometer assigned will appear in this drop-down
- **Date of Purchase** and **Calibration Due** – entering the date of calibration and how frequently calibration is due (in months) will help you keep track of this information and when your data logger needs to be recalibrated or replaced; for the VFC-400 enter 24; for any other units, please refer to manufacturer's recommendations
- **Important**: Thermometer Type drop-down = select **CTM**
- **Serial number** can be found on the data logger and/or calibration certificate
- Any additional information may be entered in the ***Comments*** field



When finished, ***be sure to click the Create button*** to save all entered information.

4

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All DDL devices must meet CDC requirements and must generate temperature files compatible with direct upload into the New Mexico Immunization Registry (NMSIIS); the VFC400 data logger has been approved for use on vaccine refrigerators, freezers, and transport units; other devices will require pre-approval based on the results of temperature file compatibility assessment.

The software for the DDL will need to be installed and correctly configured to enable the proper use of the device and upload of the required temperature files. Please notify your IT staff in advance if their assistance is required for software installations at your site.

IMPORTANT: Use software version 2.9 Build 6

For the VFC400 device, the software settings are shown below:

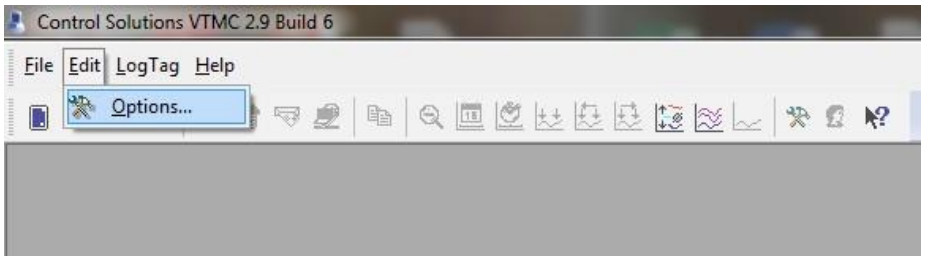
Control Solutions VTMC Software Settings

Please do not dock your data logger for this process.

This only needs to be done when the software is installed the first time (including if you switch computers)



Open the Control Solutions VTMC Software

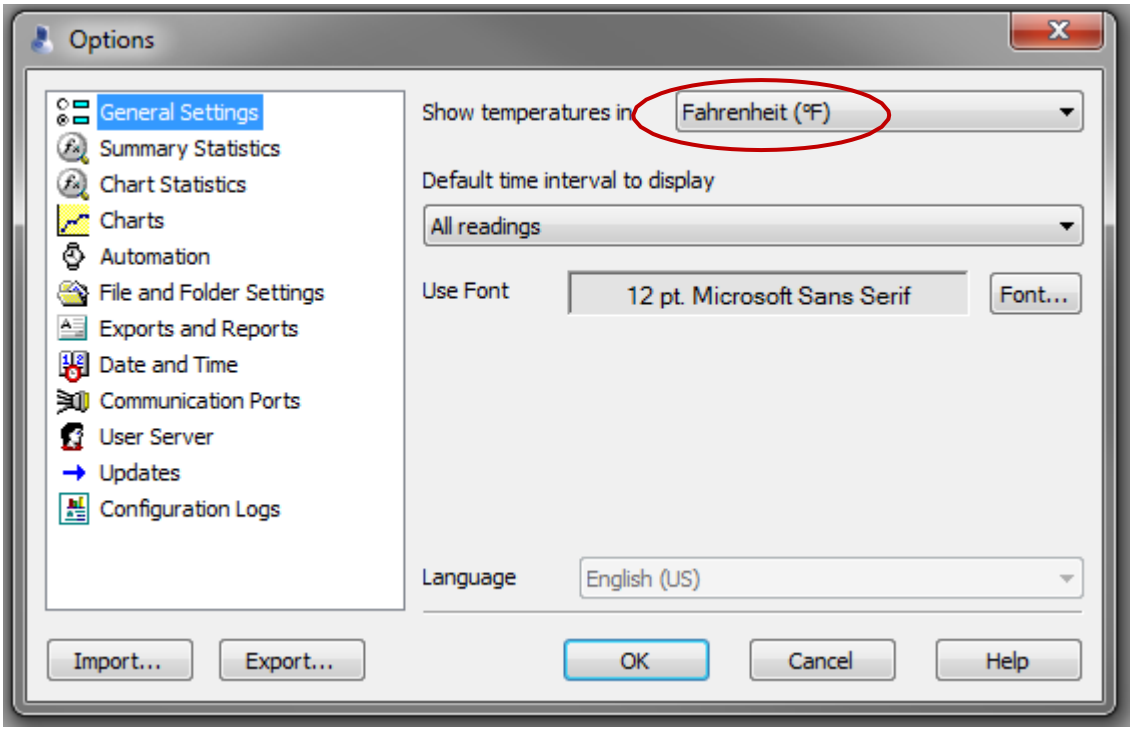


Go to ***Edit***, then ***Options***

Review the settings shown and ensure yours match these screenshots:

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GENERAL SETTINGS

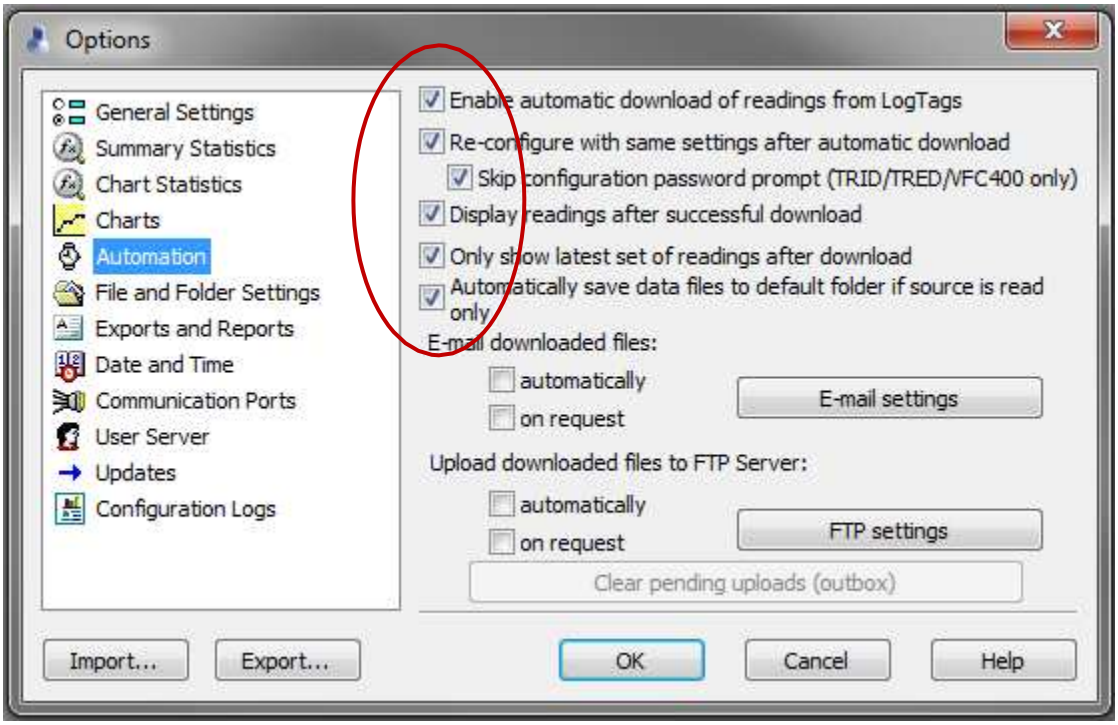


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AUTOMATION

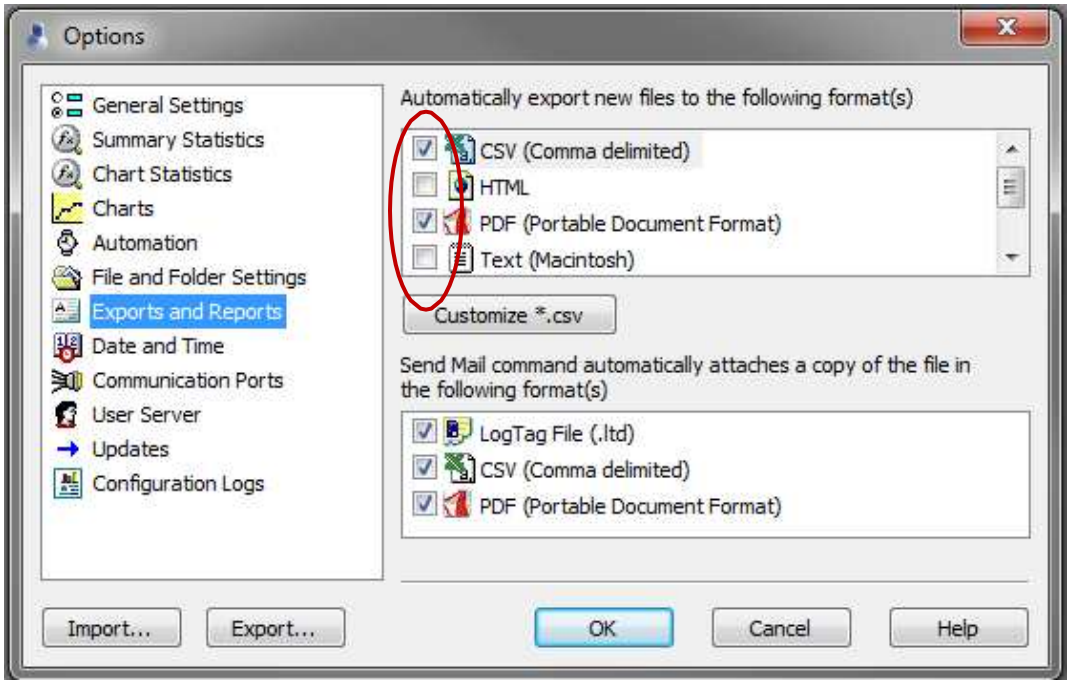
Please note that on this screen you may not see the third box (“Skip configuration password prompt”)

This is ***not a problem***; all other boxes should still be checked.



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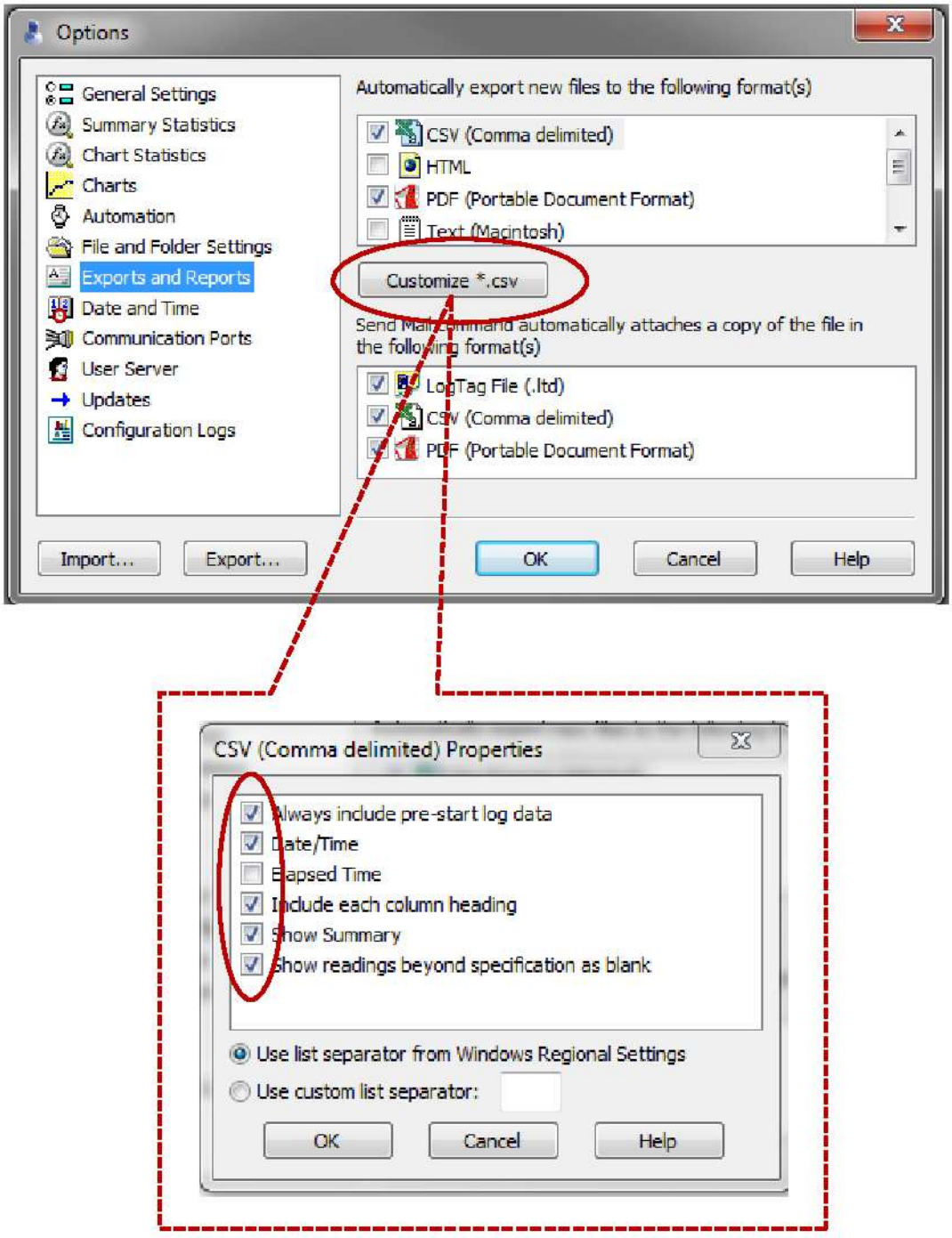
EXPORTS and REPORTS



When you have changed the settings for ***Exports and Reports*** shown above, the .pdf and the .csv files will save to your computer automatically when you dock your data logger (be sure to allow the data upload process to complete).

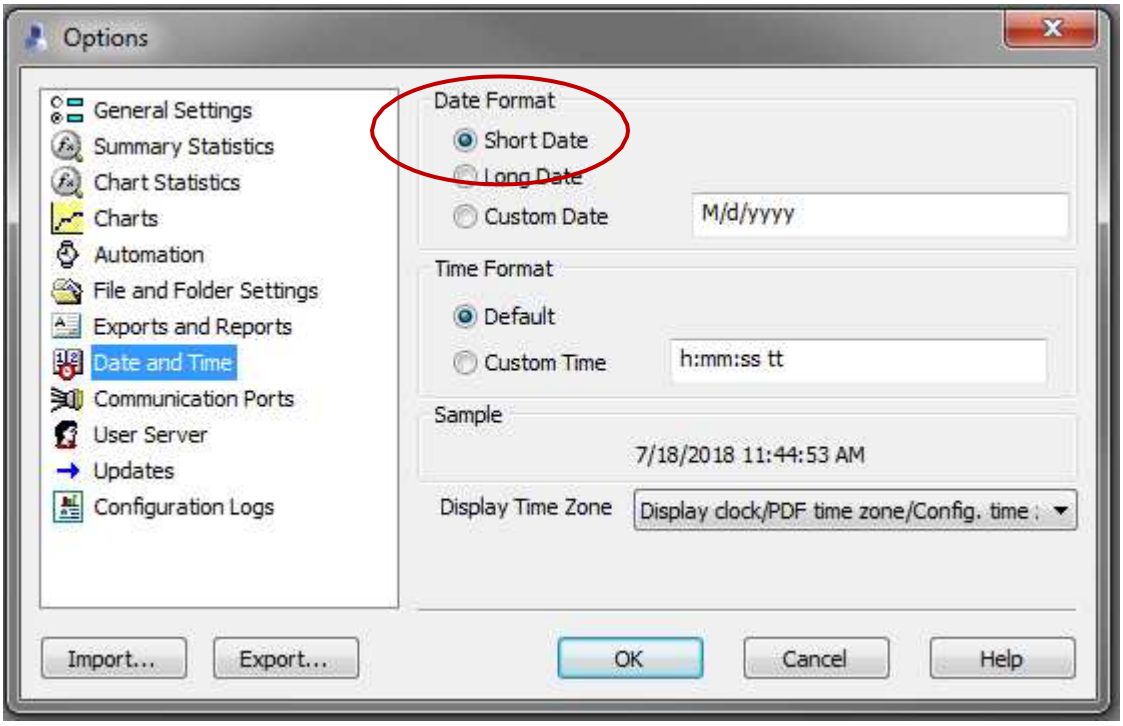
EXPORTS and REPORTS (cont.)

Click on the "Customize *.csv" button and the Properties window (shown below) will open. Make sure all the boxes are checked as shown.



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DATE and TIME



When you have finished matching all your settings to those shown here, be sure to click ***OK*** to save them

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Ordering and Receiving COVID-19 Vaccine in NMSIIS

Submitting a COVID-19 Vaccine Order in NMSIIS

All COVID-19 Vaccine orders will be submitted to the New Mexico Immunization Program via NMSIIS

If your facility is a Vaccines for Children (VFC) and/or Adult (317) provider that also orders other vaccines through NMSIIS, all orders for COVID-19 vaccines should be made as **separate transactions** from these orders.

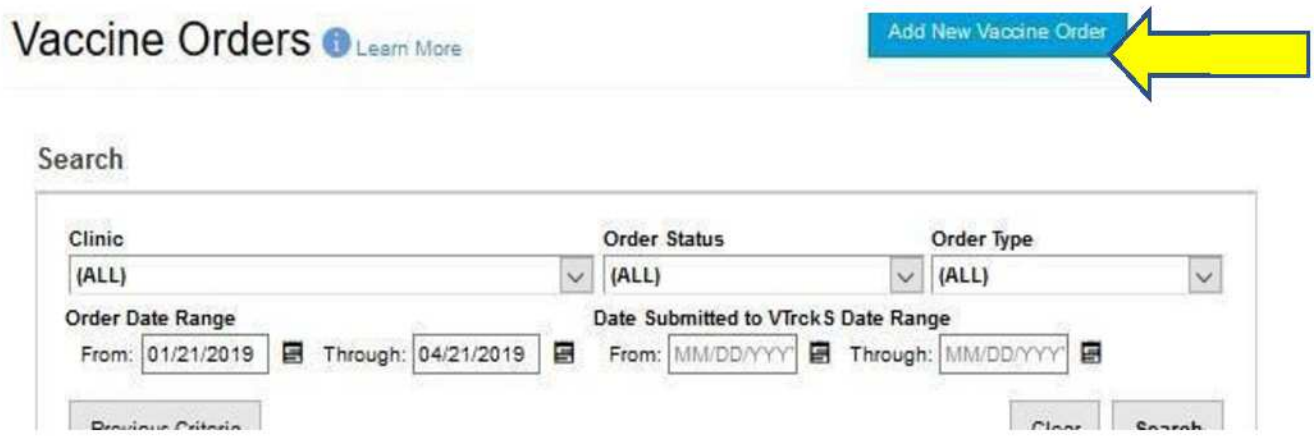
Ordering and Receiving COVID-19 Vaccine

Submitting a COVID-19 Vaccine Order in NMSIIS



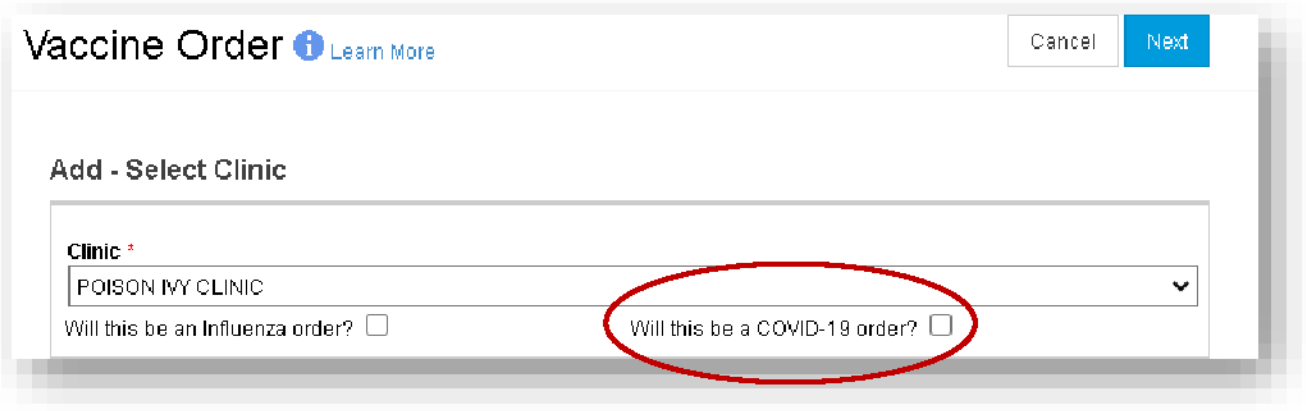
Step 1. In the blue panel to the left, navigate to the Inventory module and click the (+) sign to expand the menu. Then click the (+) sign next to "Vaccines" to expand that menu. Then select "Vaccine Orders."

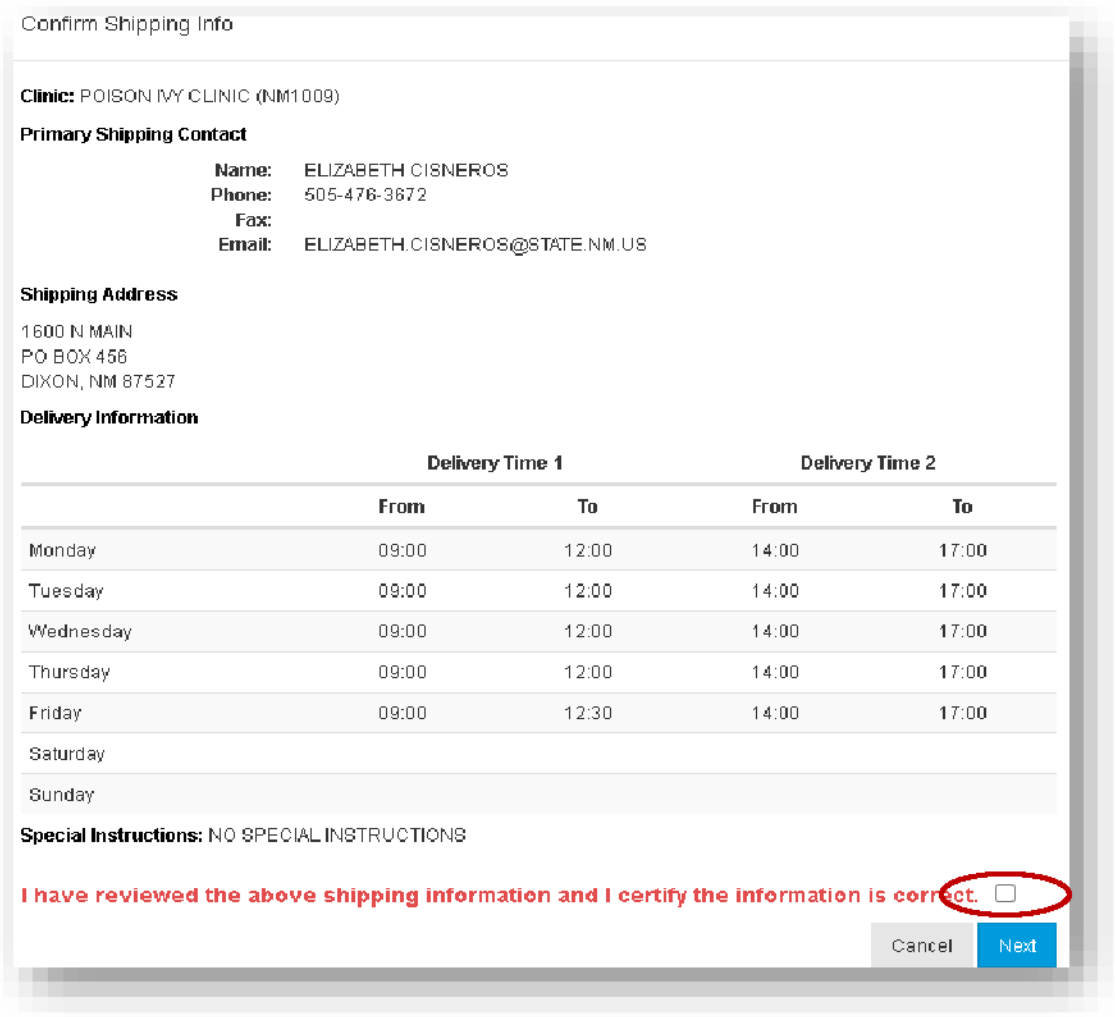
Step 2. In the upper right corner of the "Vaccine Orders" screen that displays, select "Add New Vaccine Order"



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Step 3. The Vaccine Order screen will display. When you initiate the order, it will give you the option to select if it is a COVID-19 order Select your clinic from the drop-down menu
After checking the COVID-19 order box and clicking the blue "next" button, you'll be asked to certify that the clinic and shipping information shown is correct.



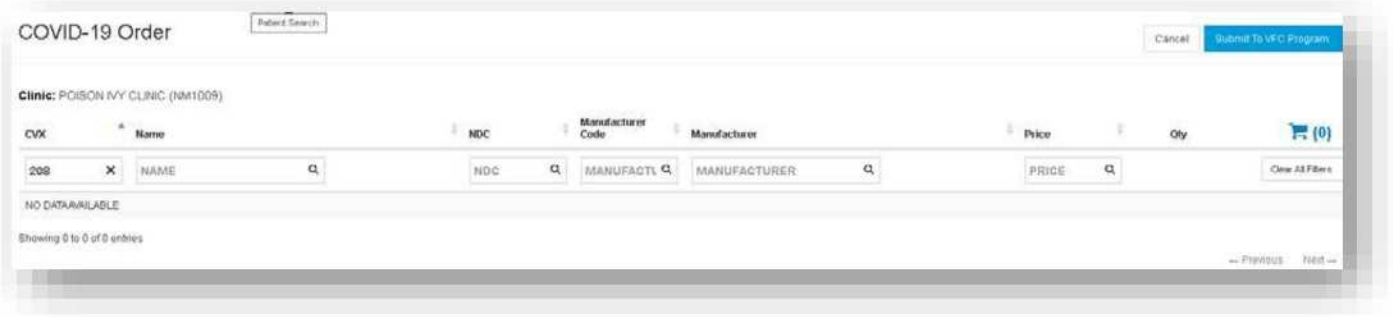


Step 4. Your clinic's shipping address, delivery hours, and shipping contact information will display. Once you have confirmed that the information is correct, check the box next to "I have reviewed the above shipping information and I certify the information is correct" and click **Next**. If any of the shipping information is incorrect, please update it with the correct information in NMSIIS ***before***

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placing your order.

Step 5. The COVID-19 Order screen view will now be displayed



This is what the order page will look like – Once complete, please review your order to ensure there are no errors; you may also add text in the "Clinic Comments" field

NOTE for vaccine being delivered from the DOH Depot: ***The vaccine Transport Team WILL make direct phone contact approximately 30 minutes before arrival.***

If you are placing an order for Pfizer vaccine you MUST enter the name and cell phone number of two staff who can be contacted by the Transport Team to coordinate the vaccine delivery and assist with the transfer of vaccine when it arrives

When processing your order for shipment or delivery, we will assume that the normal 48-72-hour turnaround time is preferred and expected. Please let us know if you have different timing needs with information in the comments and we will do our best to accommodate them.

After entering the vaccine order information, you'll submit to the program by clicking the blue button in the top right

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Receiving COVID-19 Vaccines into your On-Hand Inventory in NMSIIS

All COVID-19 Vaccine must be received into your inventory in NMSIIS to facilitate the administration, tracking, reporting, and reconciliation of each dose, as required by the CDC.

The receipt of vaccine into inventory is done in two different ways and depends on the type of vaccine being received.

- For guidance on the receipt of Ultra-low Temperature (ULT) COVID-19 vaccine, see Receiving a vaccine ***transfer*** in NMSIIS
- For guidance on the receipt of refrigerated or frozen COVID-19 vaccine, see Receiving a vaccine ***shipment*** in NMSIIS

Receiving a vaccine ***shipment*** in NMSIIS

1. In the blue panel at the left side of the NMSIIS home page, navigate to **Inventory** and select the (+) sign to expand your module view. Then click on the Vaccines plus sign to expand your view further and select **On-Hand**.
2. On the On-Hand inventory page that appears, click on the blue link with a yellow triangle stating, "There are # Pending VTrcks Shipments".
3. The Pending VTrcks Shipments will display. Click **Received** for each vaccine lot received.
4. A vaccine inventory screen will display with relevant fields pre-populated. Click **Create**.
5. The vaccine shipment will then be loaded in your inventory on the On-Hand screen.

Receiving a vaccine ***transfer*** in NMSIIS

Reminder: your site must have a completed COVID Redistribution Agreement to receive transferred vaccine

Follow these steps if another VFC location has transferred vaccine **to** your site:

1. Go to Inventory On-Hand, click on blue hyperlink



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2. Locate the vaccine and click on ***Received***



Please note: the transfer will not be complete until the **receiving** site follows the steps above

COVID-19 Vaccine Inventory Management and Reporting Requirements

Data Reporting Requirements to NMSIIS (New Mexico Statewide Immunization Information System)

Patient demographic and vaccine data is required to be reported to New Mexico's IIS (Immunization Information System, every 24 hours. Data can be reported in one of the following ways:

1. Manual data entry: Providers enter the patient and administered vaccine information directly into the IIS
2. Automated data exchange: Provider enters the patient and administered vaccine information into their Electronic Medical Record/Electronic Health Record and the data is then uploaded into the state's IIS.

For information on how to begin reporting to NMSIIS, please see our training and data exchange pages on the NMDOH website:

NMSIIS Training: https://www.nmhealth.org/about/phd/idb/imp/siis/train/
NMSIIS Data Exchange: https://www.nmhealth.org/about/phd/idb/imp/siis/dte/

For reporting COVID-19 Vaccine data to the IIS, please see the table below for a complete list of required data elements.

Required Vaccine Administration Data Elements

Vaccinating Facility and Health Care Provider Related
Administered at location/facility name/ID
Administered at location type
Administration address (Street - 2 lies, city, county, state, zip)
Sending organization
Vaccine administering provider suffix
VTrckS Provider PIN
Vaccine Related Data Elements
MVX (manufacturer)
CVX (product)
Lot number (UoU or UoS - UoU is preferred)
Vaccine expiration date
Vaccine NDC

Patient/Vaccine Recipient Related
Recipient name (First, Middle, Last)
Recipient date of birth
Recipient address (street, city, county, state, zip)
Recipient sex
Recipient race (patient identified/multiple options)
Recipient ethnicity
Vaccine administration site (on the body)
Vaccine route of administration
Recipient ID
Administration date
Vaccine series complete
Dose number

Optional Vaccine Administration Data Elements

Patient/Vaccine Recipient Related
Comorbidity status (Y/N)
Recipient missed vaccination appointment (Y/N)
Serology results
Vaccination Refusal (Y/N)

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Daily Reporting in VaccineFinder

The daily reporting of all inventory must be done in VaccineFinder
Additional information about VaccineFinder can be found in the Appendices

Within 24 hours of administering a dose of COVID-19 Vaccine and adjuvant (if applicable), Organization must record in the vaccine recipient's record and report required information to the relevant state, local, or territorial public health authority. Details of required information (collectively, Vaccine-Administration Data) for reporting can be found on CDC's website. Here are some important links:

- CDC COVID-19 Vaccination Provider Support, Data and Reporting: https://www.cdc.gov/vaccines/covid-19/vaccination-provider-support.html
- VaccineFinder COVID-19 Vaccine Provider Information website (includes video trainings): https://vaccinefinder.org/covid-provider-resources
    - Direct links to training videos:
        - Provider Setup and Inventory: https://vimeo.com/481324512
        - Jurisdiction Reporting Inventory: https://vimeo.com/481324268
- Onboarding emails will come from: vaccinefinder@auth.castlighthealth.com
- Technical support team: vaccinefinder@castlighthealth.com

Weekly Inventory Reconciliation

Organization must report the number of doses of COVID-19 Vaccine and adjuvants that were unused, spoiled, expired, or wasted as required by the relevant jurisdiction.

This is accomplished through a weekly reconciliation of your site's COVID-19 vaccine inventory in NMSIIS. The step-by-step instructions for completing a weekly reconciliation of your COVID-19 inventory follows.

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NEW MEXICO
DEPARTMENT OF
HEALTH

NEW MEXICO IMMUNIZATION INFORMATION SYSTEM (NMSIIS)

INVENTORY GUIDE
Reconciliation Process

AMERICAN LEGALNET, INC.

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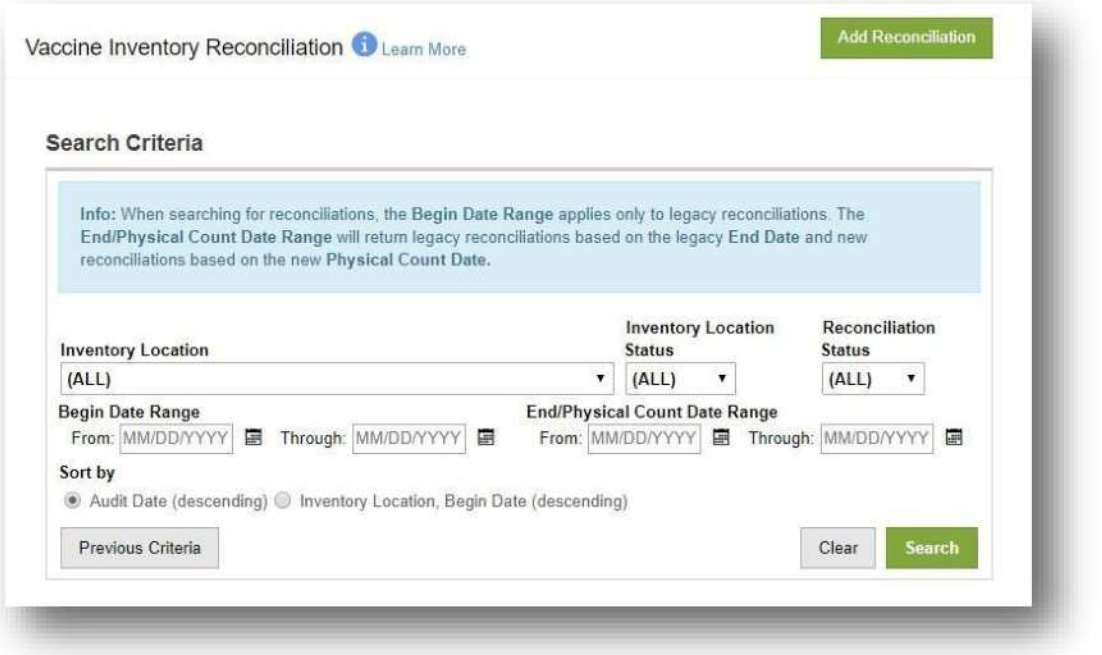
Overview

This document outlines the steps an end user must take to complete their reconciliations in NMSIIS.

Complete a Reconciliation

Reconciliation Search Page

- Navigate to the **Inventory Module**, select **Vaccines** and select **Reconciliation**.
- The *Vaccine Inventory Reconciliation Search Criteria* page will be displayed.
    - A blue info bar will be displayed above the Search Criteria with the following text:
        - Info: When searching for reconciliations, the **Begin Date Range** applies only to legacy reconciliations. The **End/Physical Count Date Range** will return legacy reconciliations based on the legacy **End Date** and new reconciliations based on the new **Physical Count Date**.



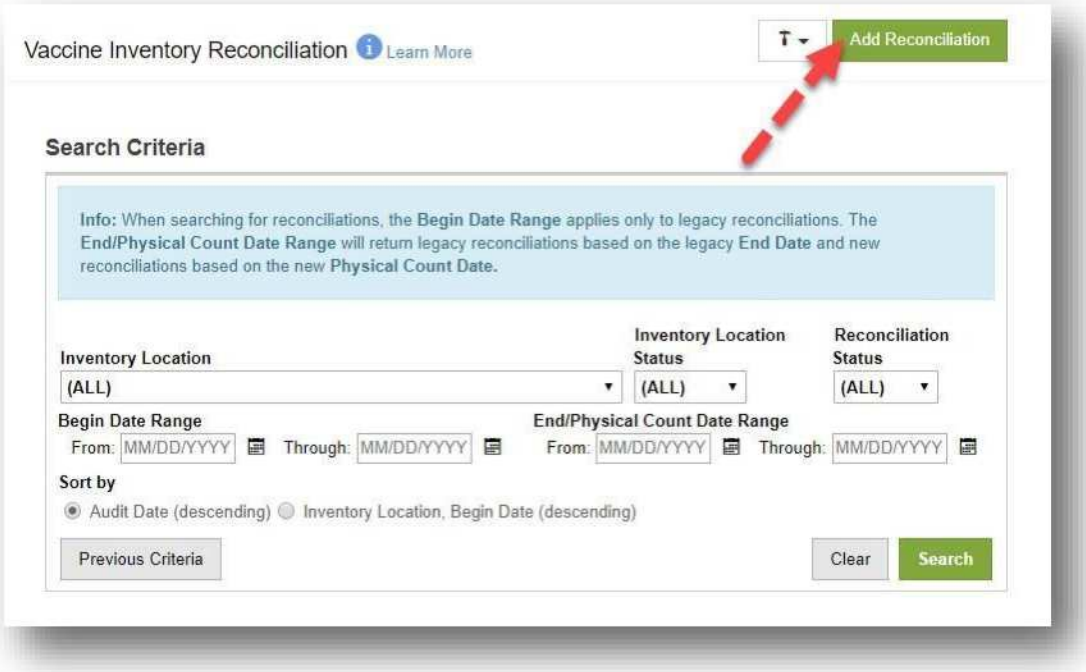
- Tip: To quickly view a list of all reconciliations, do not enter any **Date Range** criteria and select **Search.**

Reconciliation Create Page

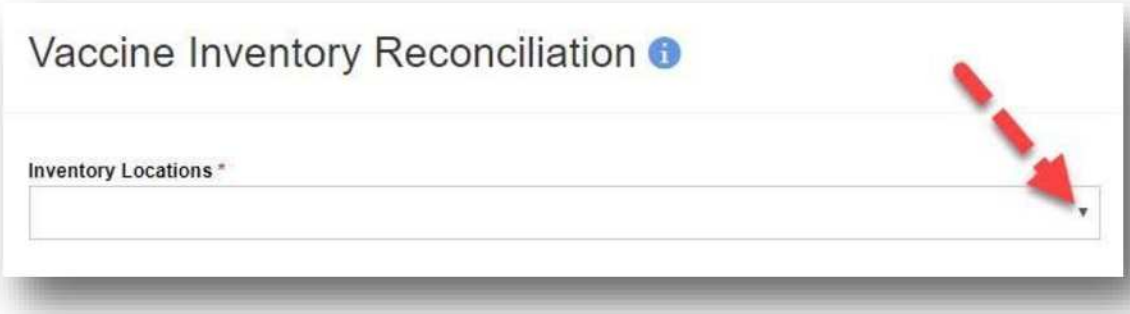
- Navigate to the **Inventory Module**, select **Vaccines**, and select **Reconciliation**.
- The *Vaccine Inventory Reconciliation Search Criteria* page will be displayed.

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- Select **Add Reconciliation**.



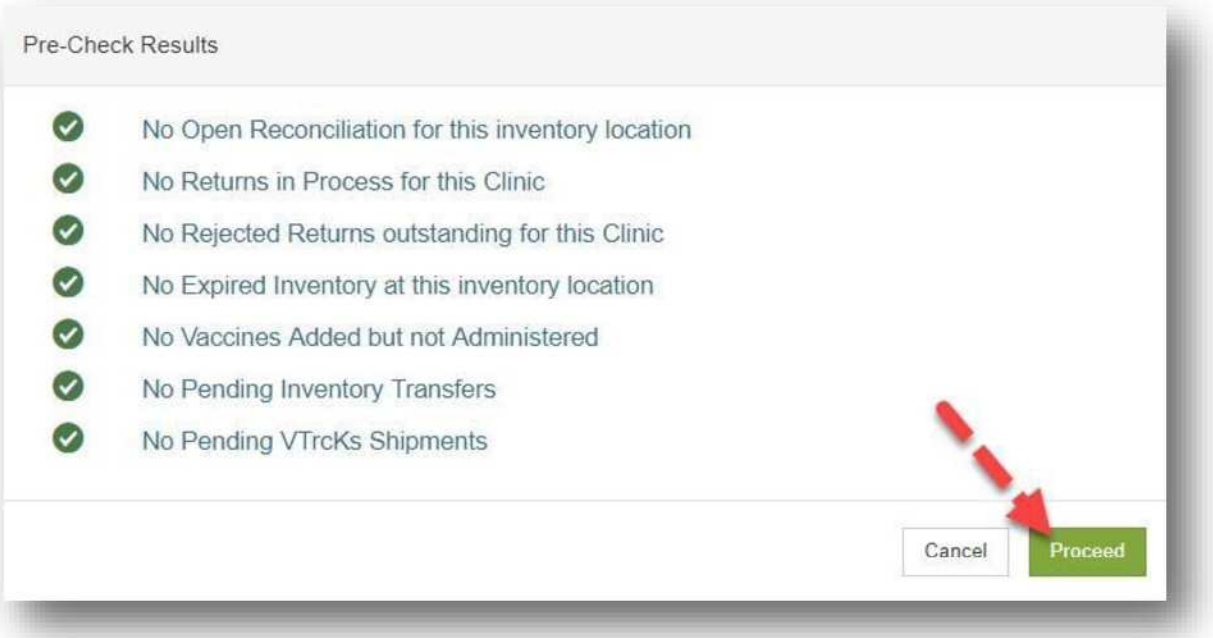
- The system will navigate to the *Vaccine Inventory Reconciliation* page to selectan Inventory Location.
- From the dropdown list, select the **Inventory Location** that will be reconciled.



- After selecting the **Inventory Location** that will be reconciled, the *Pre-Check Results* modal will appear.
- For the selected **Inventory Location**, the *Pre-Check Results* modal will display theresults from the following 7 pre-checks:
    - Open Reconciliations
    - Returns in Process
    - Outstanding Rejected Returns
    - Expired Inventory
    - Vaccines Added but not Administered

- Pending Inventory Transfers
- Pending VTrcKs Shipments

- Once all pre-checks pass (denoted by the green check mark icon), select **Proceed**.
  - Note: The option to select **Proceed** will not appear until all pre-checks have passed.



- Note: Pre-Check specifications are located in the Pre-Check Specifications section of this user guide.
- After selecting **Proceed**, the system will navigate to the next page, requiring entry of the following fields:
  - Description
    - Enter a description that best describes the reconciliation.
  - Authorized By
    - From the drop-down list, Select the name of the user that is completing the reconciliation.
    - Selecting the user icon next to the field will insert the currently logged in user's name.
  - Count Date
    - Enter the date that the count occurred.
    - The date cannot be a future date.
    - The date must be after the previous reconciliation count date.
  - Count Time
    - Input the time that the count occurred.
    - This cannot be a future time.

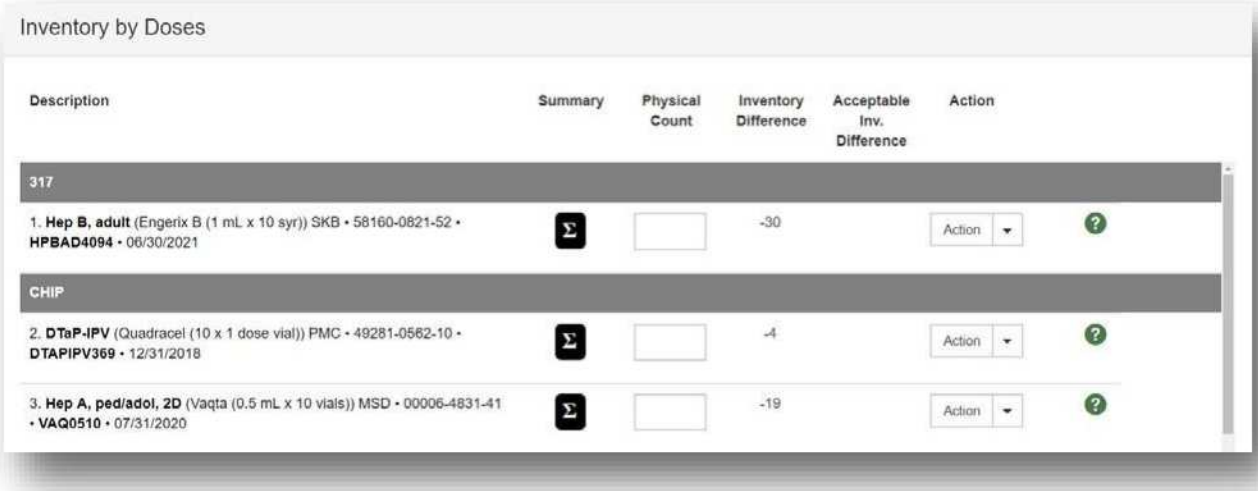
- After the required data has been entered, select **Create**, located in the upper right corner of the *Vaccine Inventory Reconciliation* page.



- After selecting **Create**, the *Inventory Reconciliation* will be created with a *Status* of OPEN.

Inventory by Doses Reconciliation Count

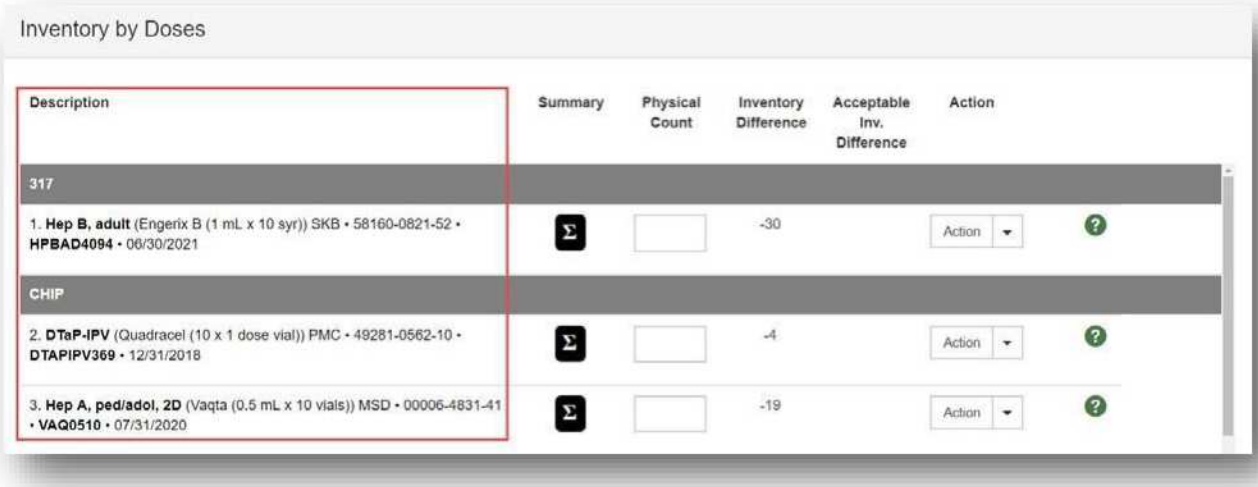
- Now that the inventory reconciliation has been created, the system will expand the *Vaccine Inventory Reconciliation* page to show the *Inventory by Doses* section of the page.



Description

- Each inventory item for the specified **Count Date** and **Time** period will be displayed with the following:
  - Assigned row number

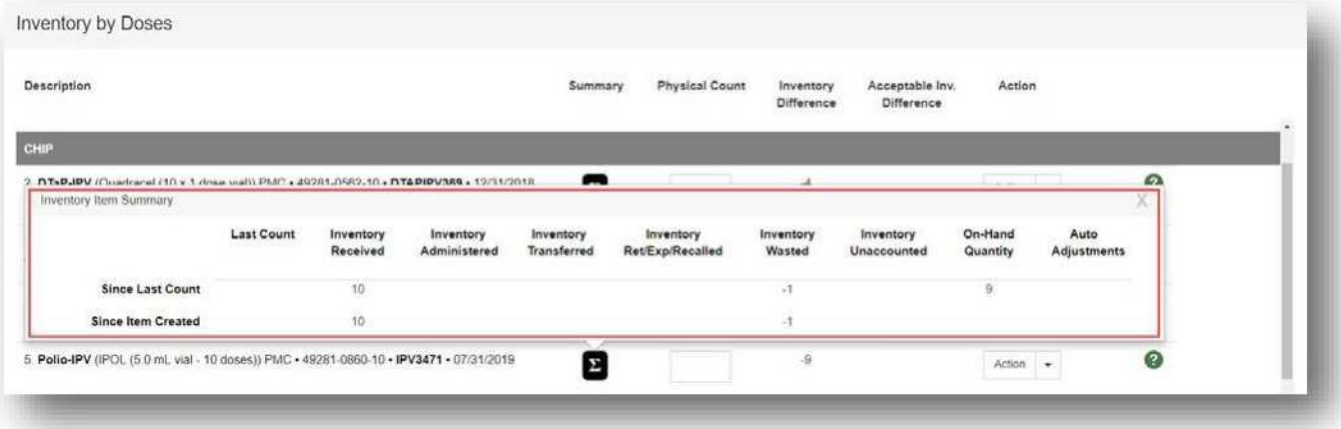
- Vaccine (Brand)
- Manufacturer
- NDC
- Lot Number
- Expiration Date



- Note: Gray sub header bars will separate listed inventory items by **Funding Source**.

Summary

- A summary icon (denoted by the black capital Greek sigma icon Σ) will display for each inventory item.

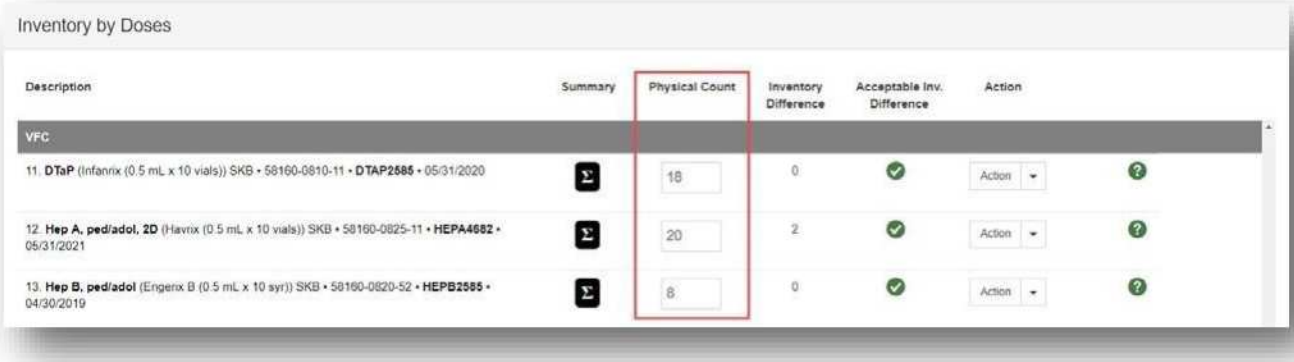


- Hover over the summary icon to reveal the *Inventory Item Summary* pop-upthat contains the following:
  - Last Count
  - Inventory Received

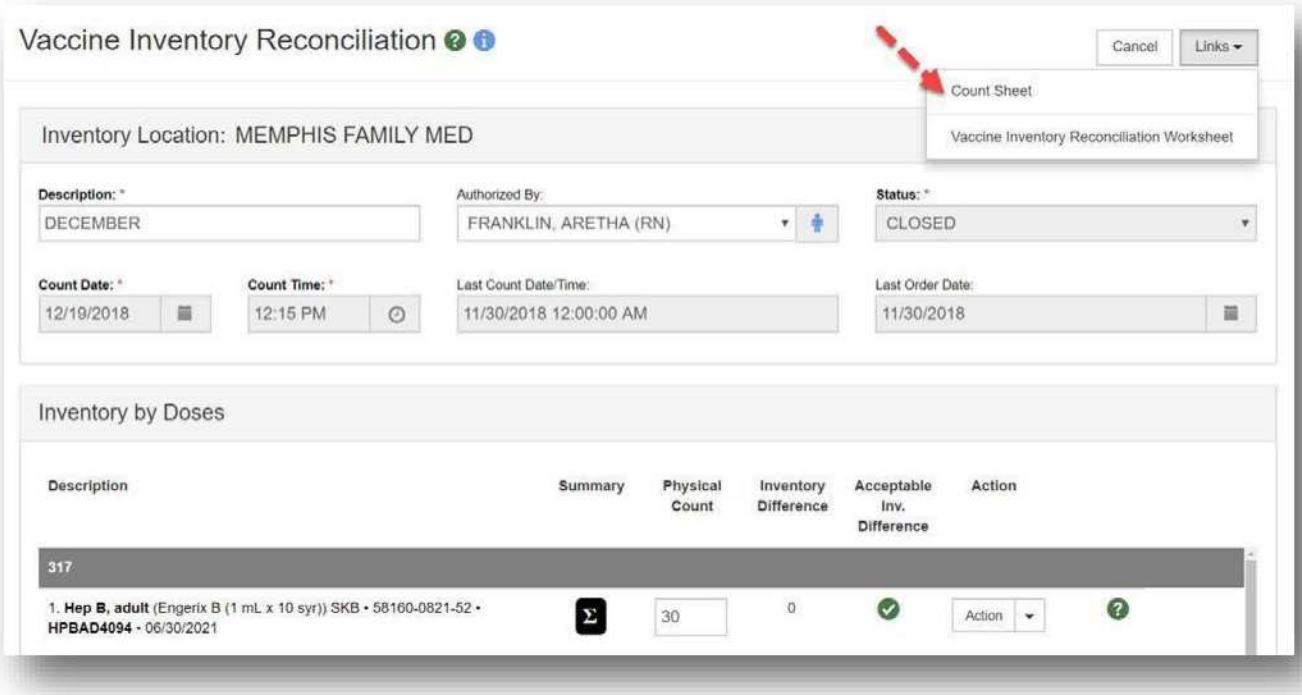
- Inventory Administered
- Inventory Transferred
- Inventory Returned, Expired, and/or Recalled
- Inventory Wasted
- Inventory Unaccounted For
- On-hand Quantity
- Auto Adjustments

Physical Count

- Input the number of physical doses counted for each inventory item listed in the open *Vaccine Inventory Location.*



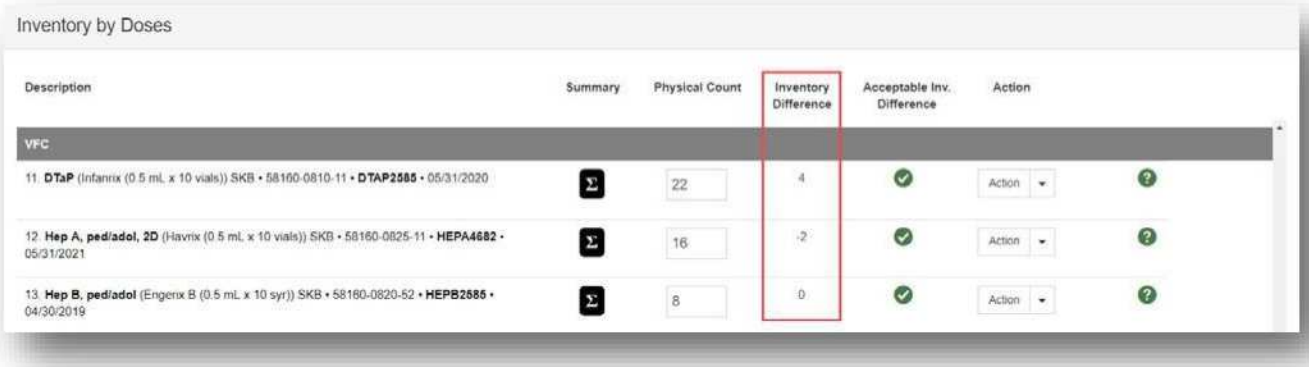
- The *Physical Count* cannot be a negative number; it must be a zero or a positive number.
- To assist with the *Physical Count*, the **Count Sheet** report is available.
  - Select the **Links** button located in the upper right corner of the *Vaccine Inventory Reconciliation* page.



- From the dropdown menu, select **Count Sheet**.
- The **Count Sheet** report will open in a pop-up window as a PDF.
- Print the **Count Sheet** and take it to the storage unit to documentthe physical counts.
- Input the documented physical counts in the *Physical Count* column ofthe reconciliation.

Inventory Difference

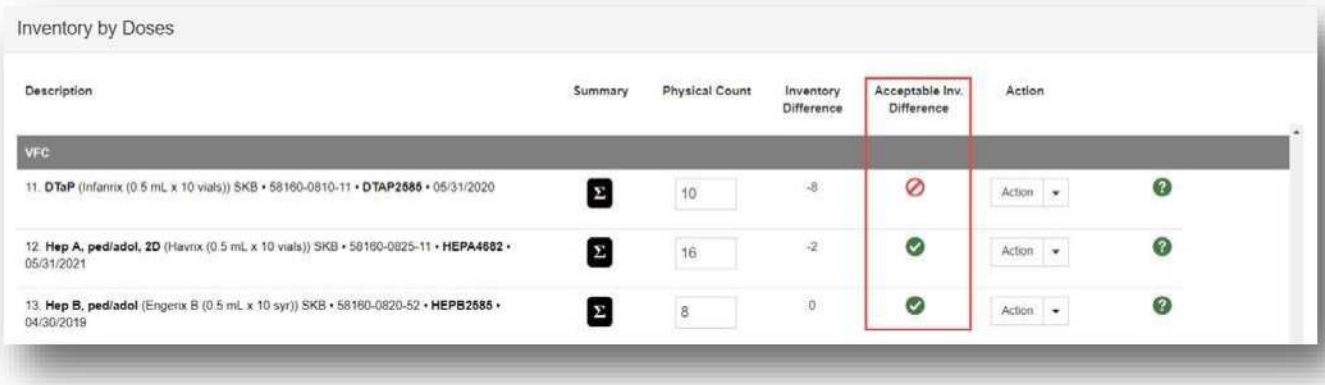
- Once a *Physical Count* has been entered and the **Update** button has been selected, the *Inventory Difference* (a read-only field) will calculate the difference between the number of starting on-hand doses, all transactions from the *Summary*, and the currently entered *Physical Count*.



- The *Inventory Difference* can be a negative or positive number.

Acceptable Inventory Difference

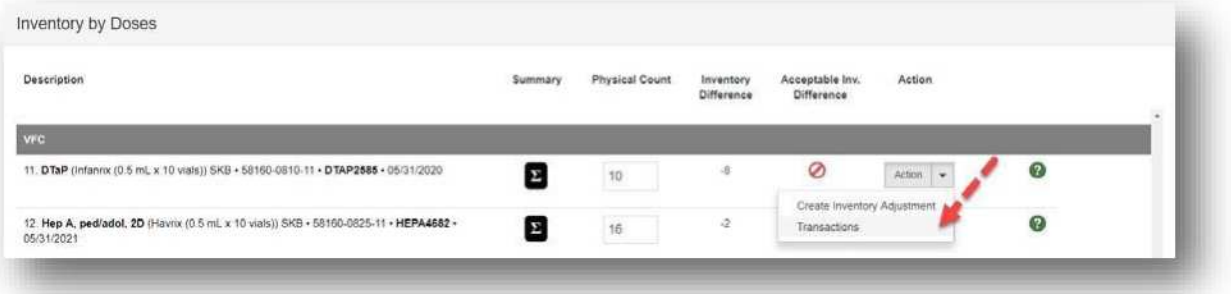
- If the *Inventory Difference* is under the allowable threshold set by the local jurisdiction, a green check mark icon will appear ( ), meaning the *Acceptable Inventory Difference* has been met.
- If the *Inventory Difference* is over the allowable threshold set by the local jurisdiction, a red stop icon will appear ( ), meaning the *Acceptable Inventory Difference* has not been met.



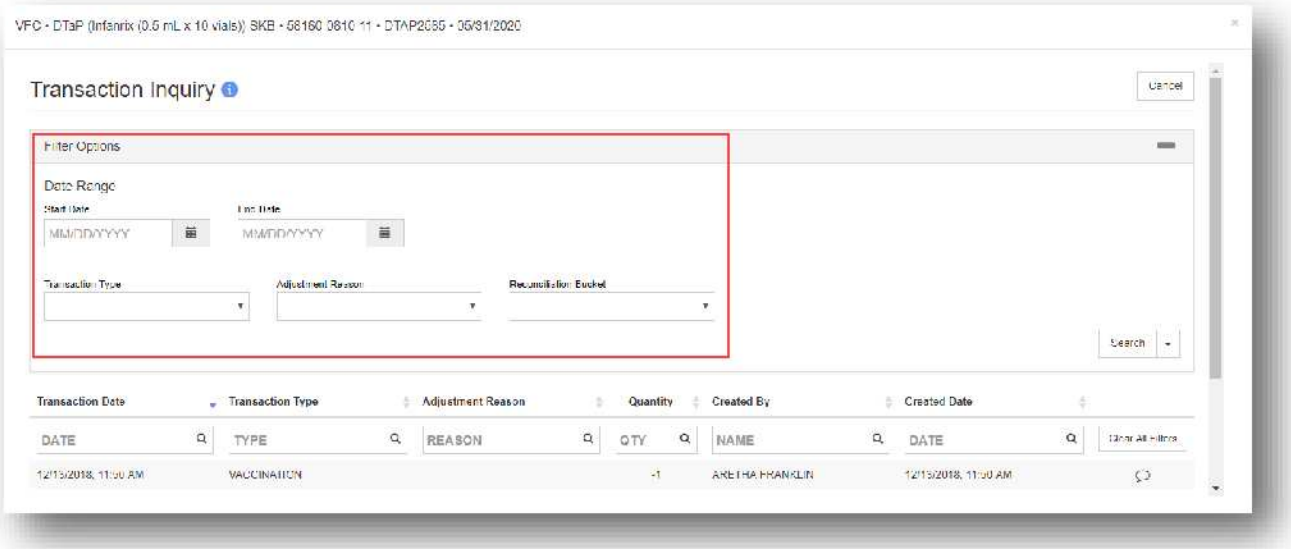
  - The *Acceptable Inventory Difference* has to be met prior to finalizing and closing the reconciliation. NMSIIS will not allow the reconciliation to be finalized and closed with an Inventory Difference on any lines.

To find the source of the Inventory Difference, review all transactions for the line in question:

- Select **Action** to complete the following task:
  - **Transactions** – To review the complete history of all transactions for the selected inventory item.
    - Select **Transactions**.

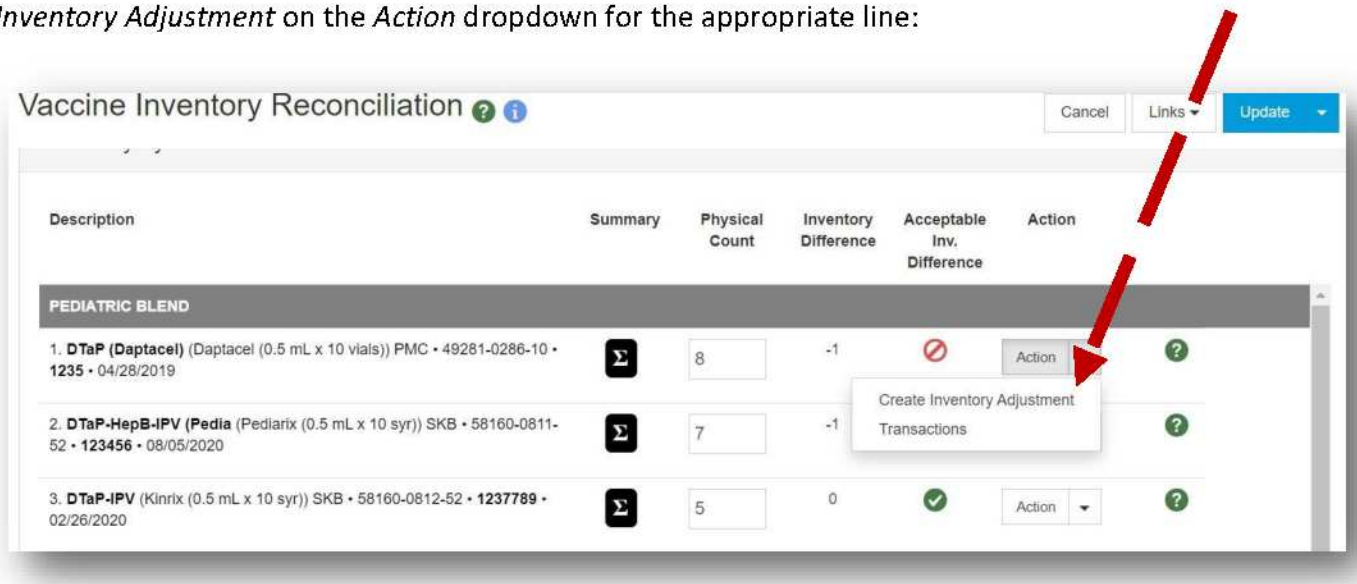


- A *Transaction Inquiry* modal will appear

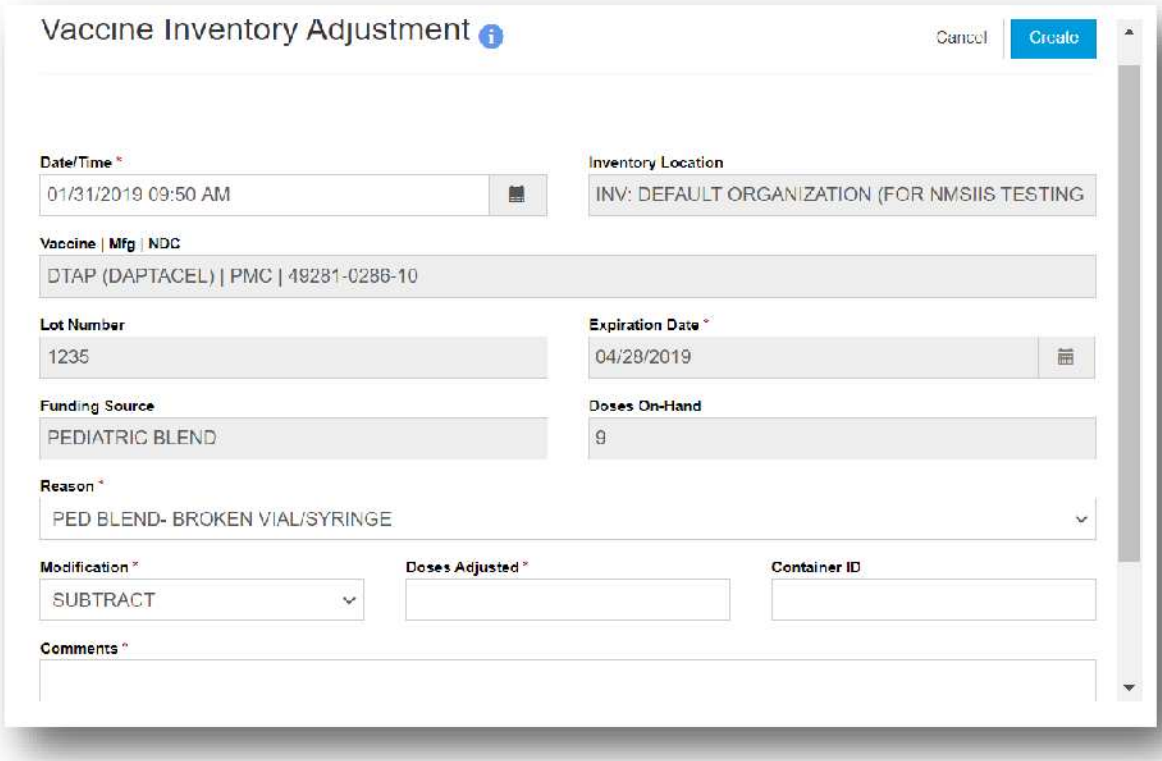


- The following filter options can be used to search, sort, and manage the transactions for the selected inventory item.
  - Start Date
  - End Date
  - Transaction Type
  - Adjustment Reason
  - Reconciliation Bucket
- **Transactions** can be used to determine and reconcile inaccuracies for the selected inventory item.

If it is found that the inventory difference is being caused by wastage that has not been entered, this can be entered without navigating away from the Vaccine Inventory Reconciliation screen. Select *Create Inventory Adjustment* on the *Action* dropdown for the appropriate line:



The Vaccine Inventory Adjustment screen will open:

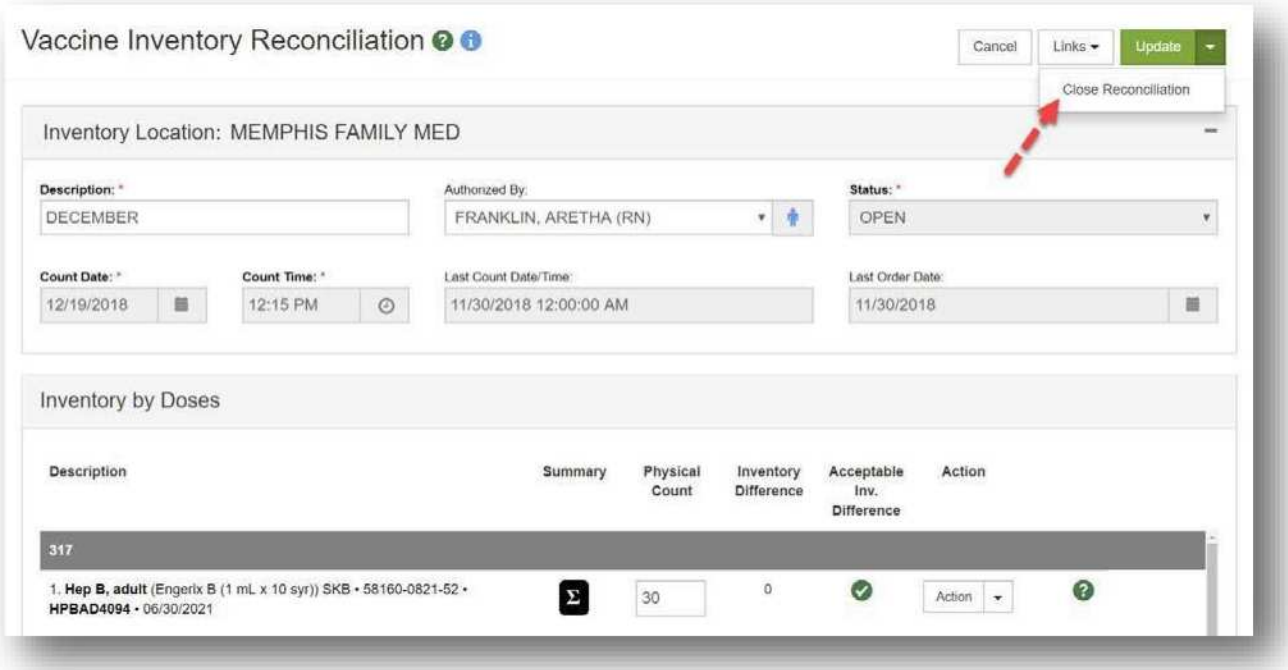


Here you will follow the guidance for correctly entering vaccine wastage found in the COVID Vaccine Provider Guide – see page 10

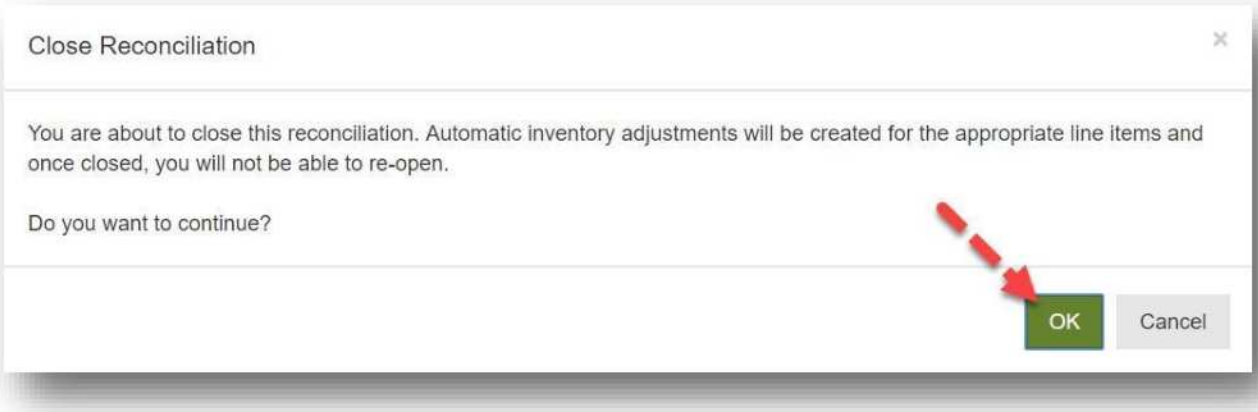
Close the Reconciliation

Please Note: Once a Reconciliation has been closed it cannot be re-opened.

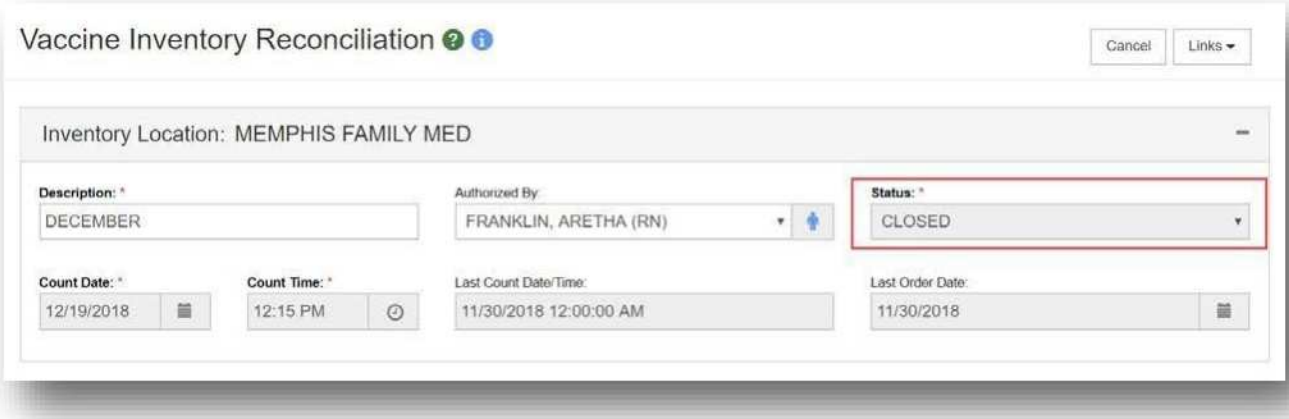
- Once all the inventory items have been accounted for andthere is are no remining inventory differences, the reconciliation is ready to be closed.
- To close the reconciliation, click the down arrow of the split action **Update** button in the upper right corner of the screen. Because Reconciliations cannot be re-opened to make corrections. Please ensure there are no unresolved inventory issues or questions and that the inventory physical count matches the exact quantities in the on-hand inventory before proceeding.
- If there are unresolvable issues or you are unsure that the Reconciliation is ready to be closed, Do Not proceed and contact the Immunization Help Desk. There is no negative impact to leaving a Reconciliation open while seeking issue resolution through help desk.



- Select **Close Reconciliation**.
  - The **Close Reconciliation** modal will appear with a confirmation message.
  - To go back and not proceed with closing the reconciliation, select **Cancel**.
  - To continue, select **OK**.



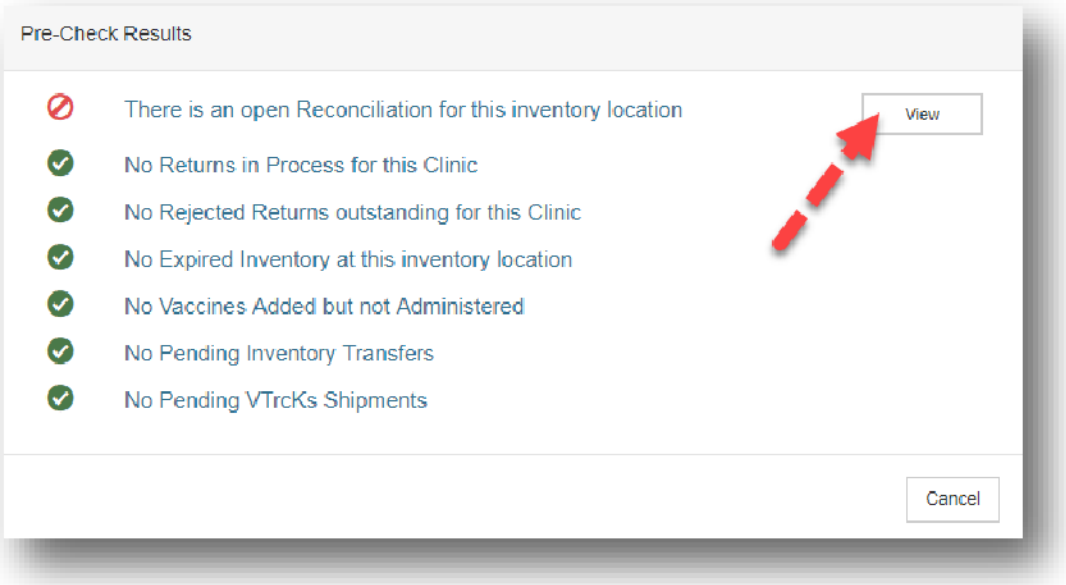
- After selecting **OK**, the system will return to the *Vaccine InventoryReconciliation* page and it will be noted that the **Status** of the reconciliation is **Closed**.



Pre-Check Specifications

Open Reconciliations

- If the selected **Inventory Location** does have an open reconciliation, a red stop icon (⊘) will display along with a **View** button.
  - Select the **View** button to navigate to the open reconciliation.

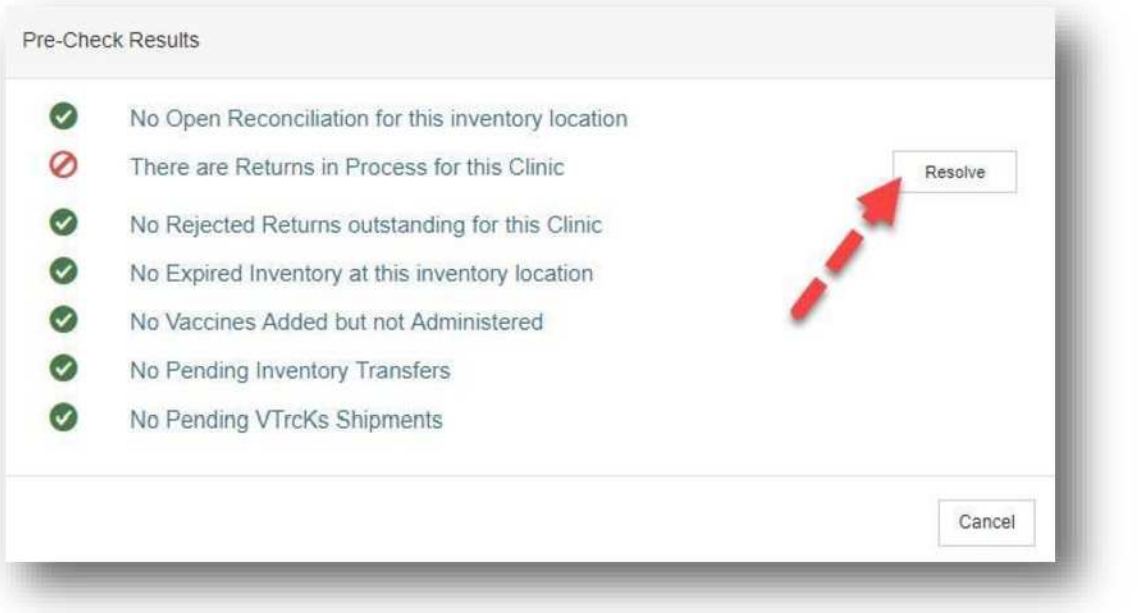


- All previously open reconciliations have to be updated and closed before proceeding with the creation of the new reconciliation.
- Selecting **Cancel** on the *Pre-Check Results* modal will navigate back to the *Vaccine Inventory Reconciliation* page.

- If the selected **Inventory Location** does not have an open reconciliation, a green check mark icon (✔) will display.

Returns in Process

- If the selected **Inventory Location** does have a return with a status of ***In Work***, a red stop icon (⊘) will display along with a **Resolve** button.
  - Select the **Resolve** button to navigate to the *Vaccine Returns* page.

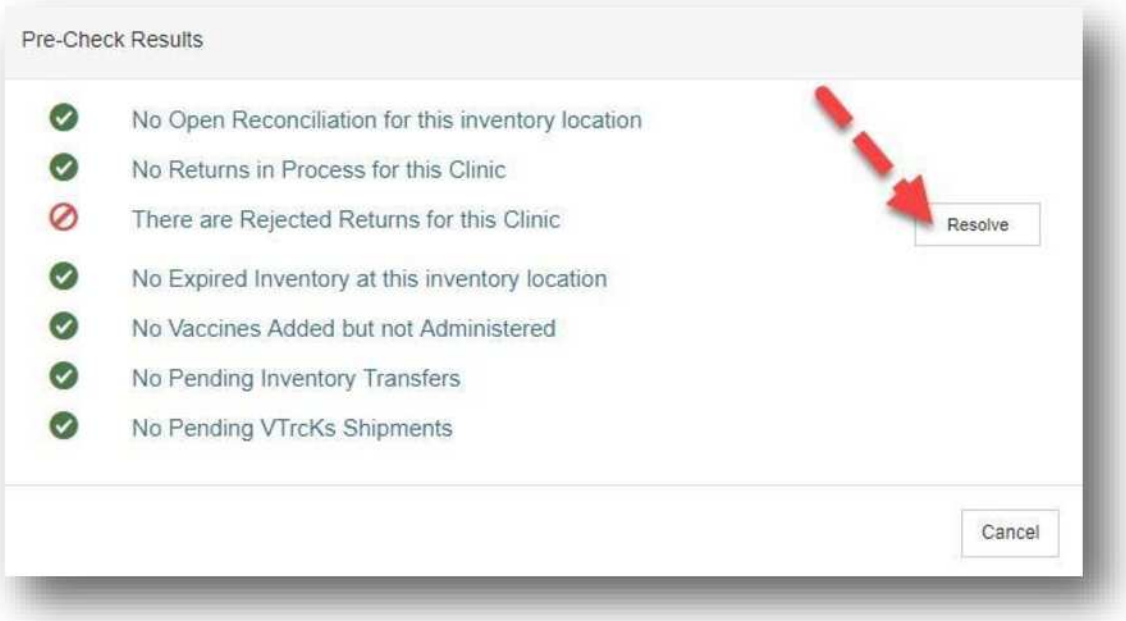


- All returns must be submitted before proceeding with the creation of the new reconciliation.
- Selecting **Cancel** on the *Pre-Check Results* modal will navigate back to the *Vaccine Inventory Reconciliation* page.

- If the selected **Inventory Location** does not have a return with a status of **In Work** or **Submitted for Approval**, a green check mark icon (✔) will display.

Outstanding Rejected Returns

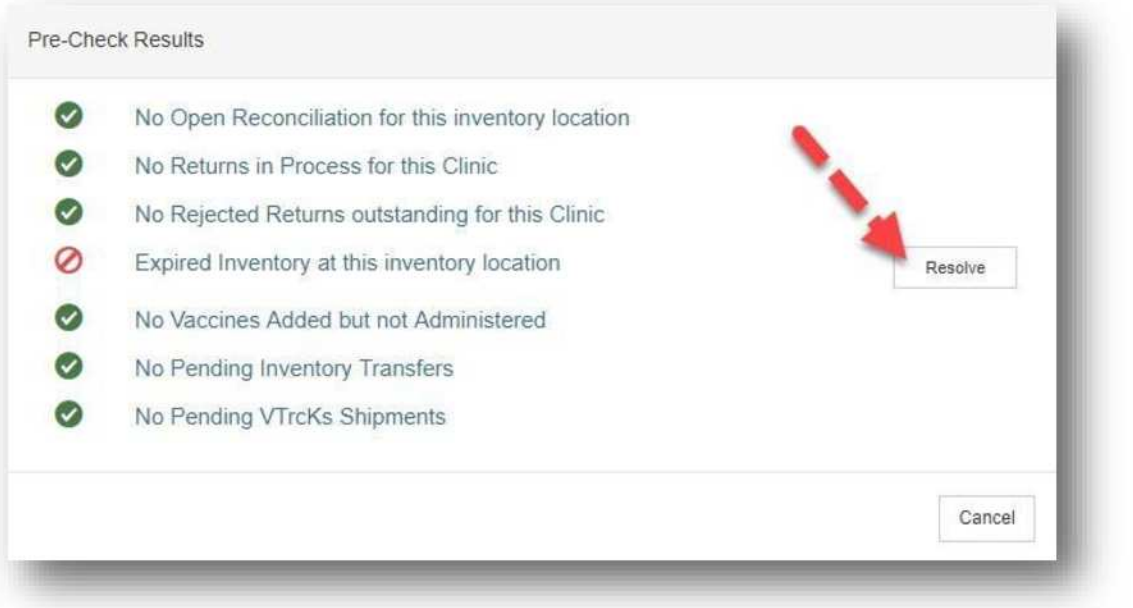
- If the selected **Inventory Location** does have a return with a status of **Rejected**, a red stop icon (⊘) will display along with a **Resolve** button.
    - Select the **Resolve** button to navigate to the *Vaccine Returns* page.



    - All rejected returns must be deleted before proceeding with the creation of the new reconciliation.
    - All IN-WORK returns must be either submitted to the Vaccines for Children Program or deleted prior to creating a new Reconciliation.
    - Selecting **Cancel** on the *Pre-Check Results* modal will navigate back to the *Vaccine Inventory Reconciliation* page.
- If the selected **Inventory Location** does not have a return with a status of **In-Work Rejected**, a green check mark icon (✓) will display.

Expired Inventory

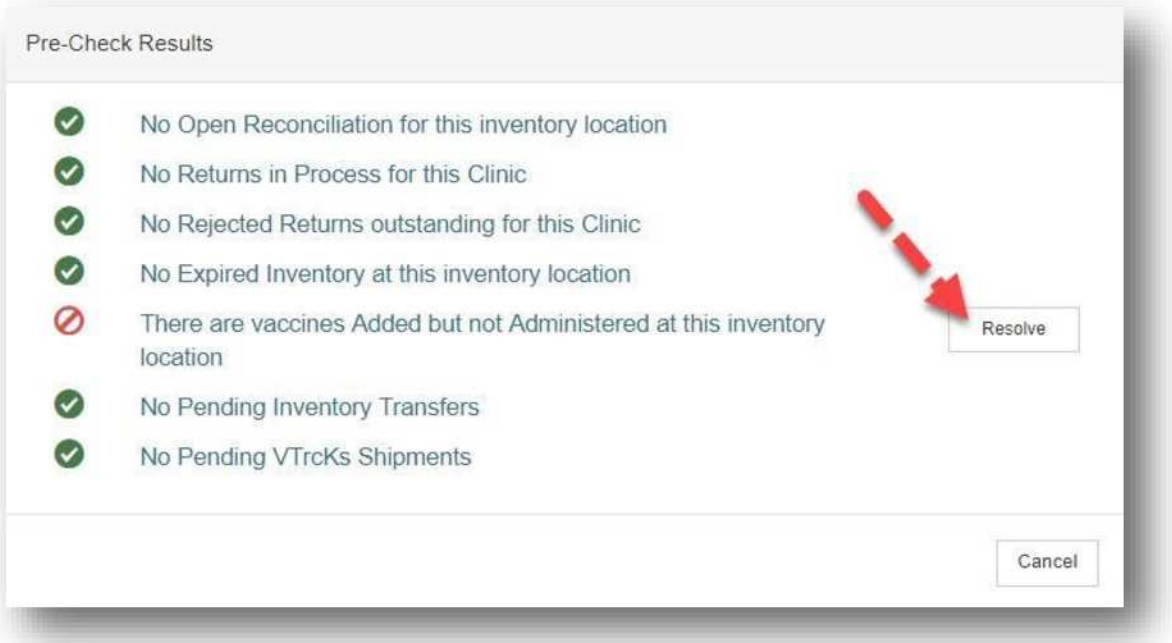
- If the selected **Inventory Location** does have inventory on hand with an expiration date prior to the current day's date, a red stop icon (⊘) will display along with a **Resolve** button.
- The expired inventory must be identified in the On-Hand Inventory screen – remember to change the Status drop-down to "Depleted/Expired" to display expired vaccines – before proceeding; when you have identified the expired vaccine
    - Select the **Resolve** button to navigate to the *Vaccine Returns* page.



    - Here you can create a return for the identified expired doses; all inventory with an expiration date prior to the current day's date must be resolved before proceeding with the creation of the new reconciliation.
    - Selecting **Cancel** on the *Pre-Check Results* modal will navigate back to the *Vaccine Inventory Reconciliation* page.
- If the selected **Inventory Location** does not have inventory on hand with an expiration date prior to the current day's date, a green check mark icon (✔) will display.

Vaccine Added but not Administered

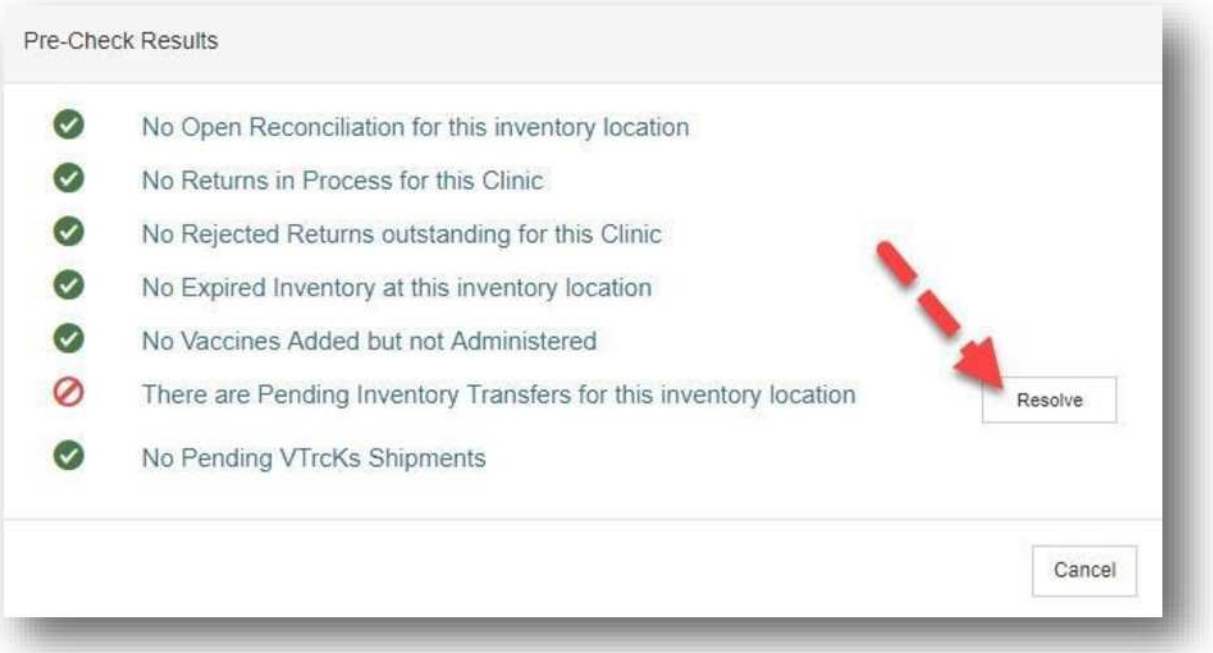
- If the selected **Inventory Location** does have vaccinations that have been added but not administered, a red stop icon ( ) will display along with a **Resolve** button.
    - Select the **Resolve** button to navigate to the *Vaccines Added but not Administered* report page.



    - All vaccines must be administered or deleted before proceeding with the creation of the new reconciliation.
    - Selecting **Cancel** on the *Pre-Check Results* modal will navigate back to the *Vaccine Inventory Reconciliation* page.
- If the selected **Inventory Location** does not have vaccinations that have been added but not administered, a green check mark icon ( ) will display.

Pending Inventory Transfers

- If the selected **Inventory Location** does have pending incoming inventory transfers, a red stop icon (⊘) will display along with a **Resolve** button.
    - Select the **Resolve** button to navigate to the *Vaccine Inventory Transfer* page.

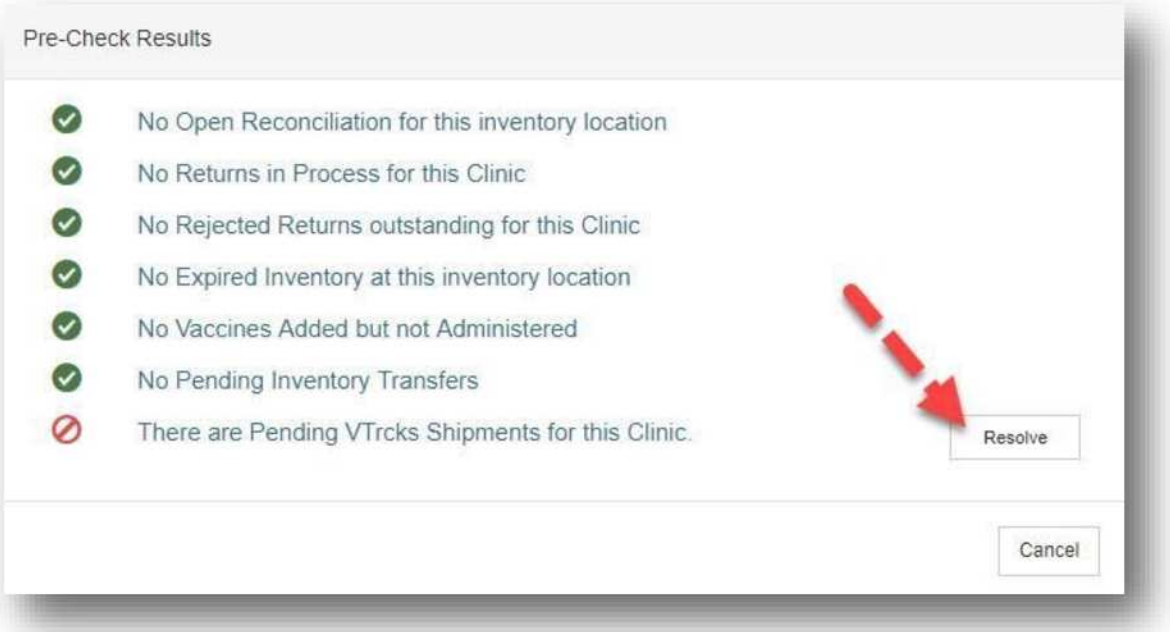


    - All incoming pending inventory transfers must be accepted before proceeding with the creation of the new reconciliation.
    - Selecting **Cancel** on the *Pre-Check Results* modal will navigate back to the *Vaccine Inventory Reconciliation* page.
- If the selected **Inventory Location** does not have pending incoming inventory transfers, a green check mark icon (✓) will display.

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Pending VTrckS Shipments

- If the selected **Inventory Location** does have pending VTrckS shipments, a red stop icon (⊘) will display along with a **Resolve** button.
    - Select the **Resolve** button to navigate to the *Pending VTrckS* page.



    - All pending VTrckS shipments must be received or dismissed before proceeding with the creation of the new reconciliation.
    - Selecting **Cancel** on the *Pre-Check Results* modal will navigate back to the *Vaccine Inventory Reconciliation* page.
- If the selected **Inventory Location** does not have pending VTrcKs shipments, a green check mark icon (✔) will display.

Expired, ***Spoiled,*** or ***Wasted*** Vaccines

Expired Vaccines

As a general rule, the criteria for expired vaccine is the dose or doses are in the original vial, syringe, or other delivery device and beyond the expiration date on the package; this includes modified expiration date e.g., ultra-low temp vaccine transferred to refrigerated storage

It is expected that all COVID-19 Vaccine Providers will enter these returns ***weekly*** prior to starting their weekly COVID-19 vaccine reconciliation.

If your facility is a Vaccines for Children (VFC) or Adult Vaccine provider that also orders and returns pediatric and/or adult vaccines through NMSIIS, all returns for COVID-19 vaccines should be made in **separate transactions** from all other vaccine returns.

Spoiled Vaccines

As a general rule, the criteria for spoiled vaccine is the dose or doses are in the original vial, syringe, or other delivery device and have been exposed to conditions that compromised the viability of the vaccine (as determined by the vaccine manufacturer)

If have vaccine that may have been spoiled (e.g., due to a temperature excursion) you must submit a Troubleshooting Report (TSR) and contact the Vaccine Manufacturer for their determination of the vaccine's viability. You will follow the same return process you would for expired vaccine – including entering the appropriate *Return Reason* - for any doses that are deemed non-viable after the incident has been reviewed by the Vaccine Manufacturer and the Immunization Program has sent you a response to your completed TSR.

Wasted Vaccine

As a general rule, the criteria for wasted vaccine is the dose or doses are no longer in the original vial, syringe, or other delivery device and have been exposed to conditions that compromised the viability of the vaccine, e.g., drawn up but not administered, broken vial, etc.

If you are making an adjustment to your inventory for wastage, that process is different than the return process; please be sure to follow those instructions.

It is expected that all COVID-19 Vaccine Providers will keep an up-to-date vaccine wastage log and enter these inventory adjustments ***daily***.

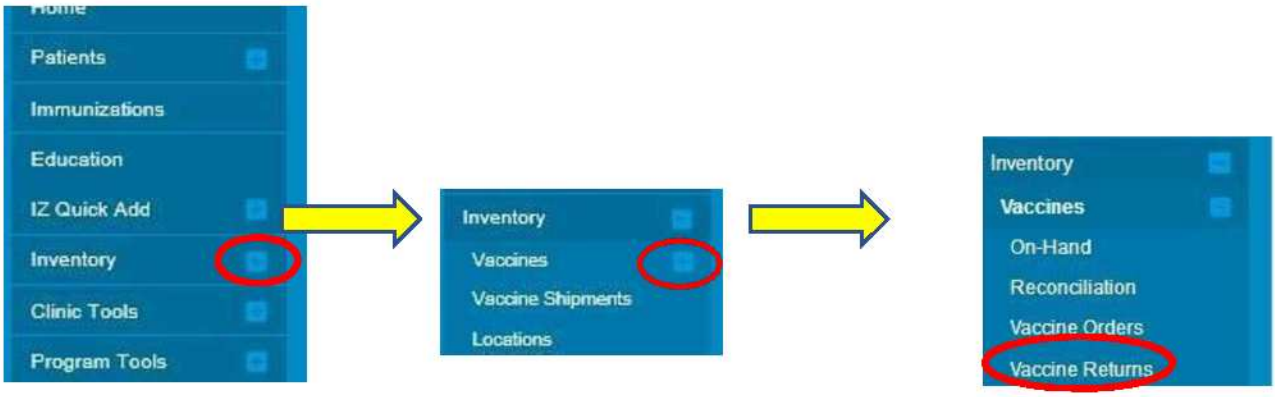
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Handling ***Expired***, ***Spoiled,*** or ***Wasted*** Vaccines in NMSIIS

Expired Vaccines

If your facility is a Vaccines for Children (VFC) or Adult Vaccine provider that also orders and returns pediatric and/or adult vaccines through NMSIIS, all returns for COVID-19 vaccines should be made in **separate transactions** from all other vaccine returns.

Step 1. In the blue panel to the left, navigate to the Inventory module and click the (+) sign to expand the menu. Then click the (+) sign next to "Vaccines" to expand that menu, then select "Vaccine Returns."



Step 2. In the upper right corner of the "Vaccine Returns" screen that displays, select "Add New Vaccine Return."



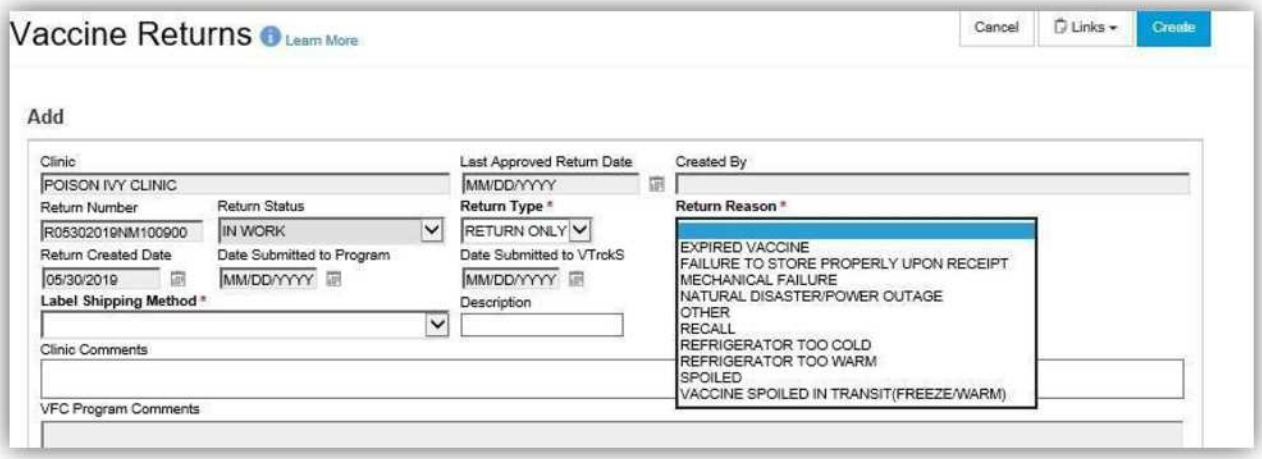
Step 3. Select the COVID-19 location for the clinic that is submitting the return and click **Next.**

Step 4. Once you have confirmed that the clinic information is correct, check the box next to "I have reviewed the above shipping information and I certify the information is correct" and click **Next**.

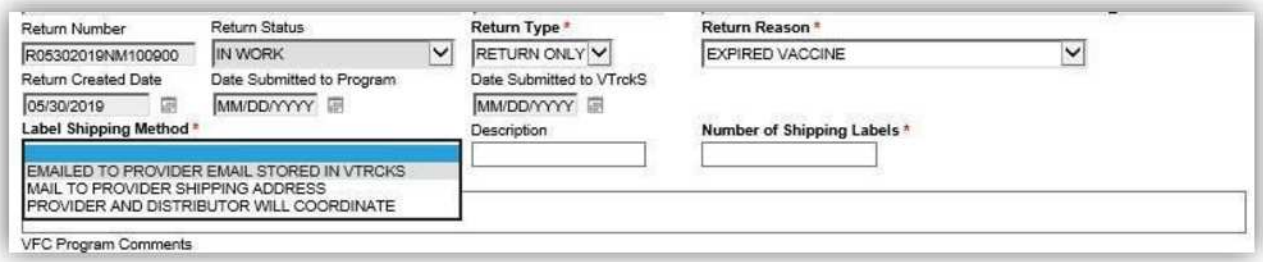
Step 5. The Vaccine Return screen is now displayed. Under Return Type, select **Return Only.**

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Step 6. Select the appropriate reason – most commonly **Expired Vaccine** - as the Return Reason in the drop-down menu.



Step 7. In the drop-down menu for "Label Shipping Method," select your preference (mail vs. email) for receiving shipping labels. In the "Number of Shipping Labels" box, enter the number of labels you will need to ship the vaccine return – usually 1 label for every 100 doses. The "Clinic Comments" text box is an optional but useful space to explain the need to return non-expired vaccine.



Step 8. To find the vaccine in your inventory, begin typing a name, NDC, funding source, or lot number for the vaccine that will be returned. Enter the number of doses to be returned. **Click Add Return.** Repeat this step for any additional vaccine lots to be returned.

Step 9. On the right side of the screen, click on the drop-down arrow next to **Update** and click on **Submit to VFC Program.** On the right side of the screen, click on **Links**. Then click on **Vaccine Return Details**. A *Vaccine Return Detail Report* will generate. Print 2 copies, one to keep in your files and one to place in the box with the returned vaccines. When you receive the return label, place it on the box of vaccines to be returned. Place a copy of the *Vaccine Return Detail Report* in the box with the vaccines to return.

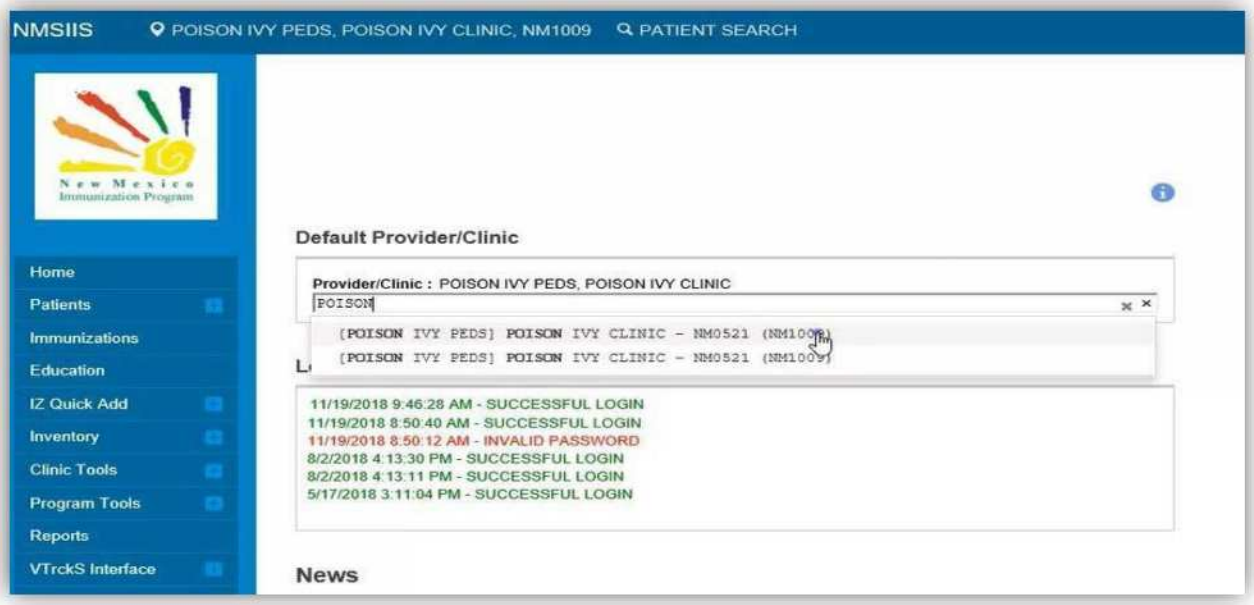
Spoiled Vaccines

If have vaccine that may have been spoiled (e.g., due to a temperature excursion) you must submit a Troubleshooting Report (TSR) and contact the Vaccine Manufacturer for their determination of the vaccine's viability. You will follow the same return process as above – including entering the appropriate *Return Reason* - for any doses that are deemed non-viable after the incident has been reviewed by the Vaccine Manufacturer and the Immunization Program has sent you a response to your completed TSR.

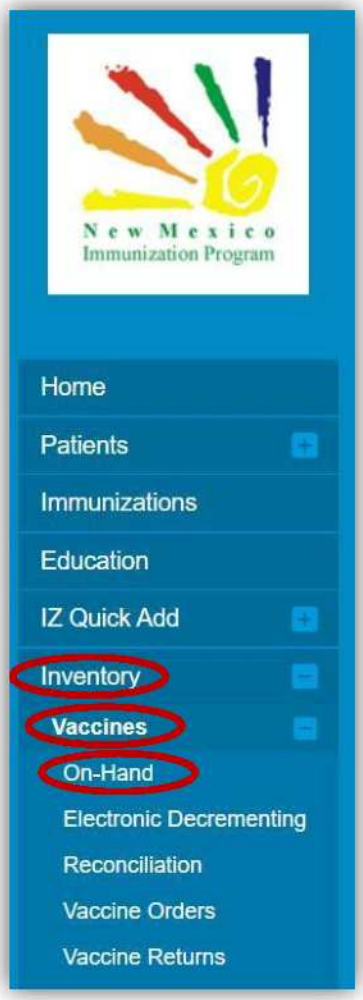
If you are making an adjustment to your inventory for wastage, that process is different, and those instructions begin on the next page.

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Wasted Vaccine



Before you begin make sure you click on the correct provider and clinic on the home screen



Next click *Inventory* to expand the menu
Click *Vaccines* to expand the menu
Click on *On-Hand* to navigate to the vaccine inventory on-hand

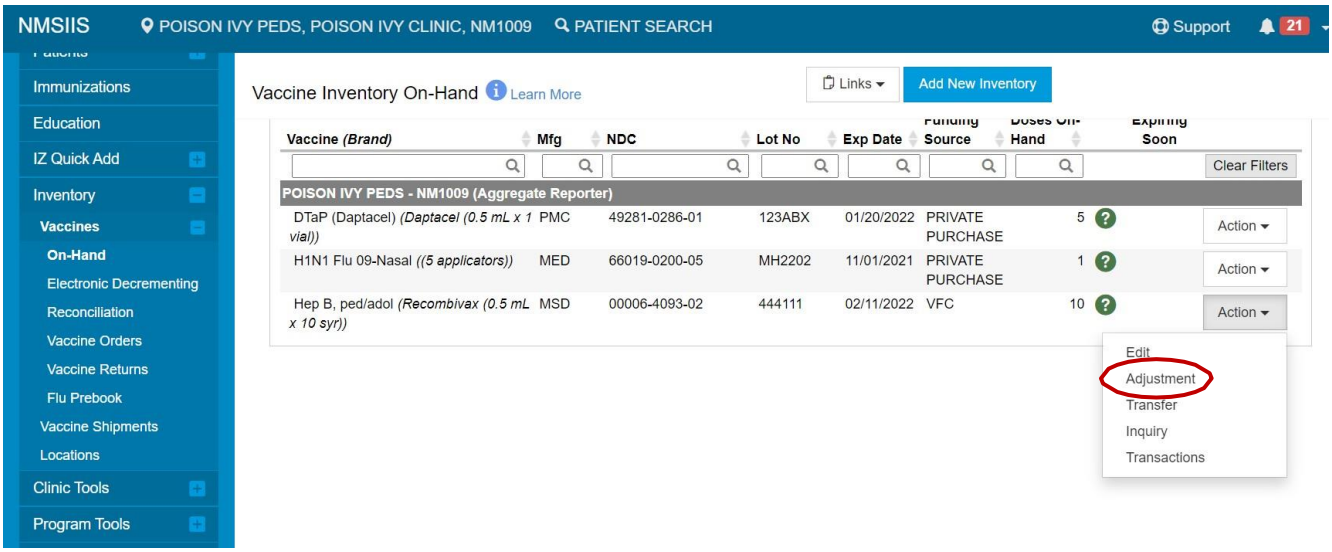
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Click on the *Inventory Location* for your clinic

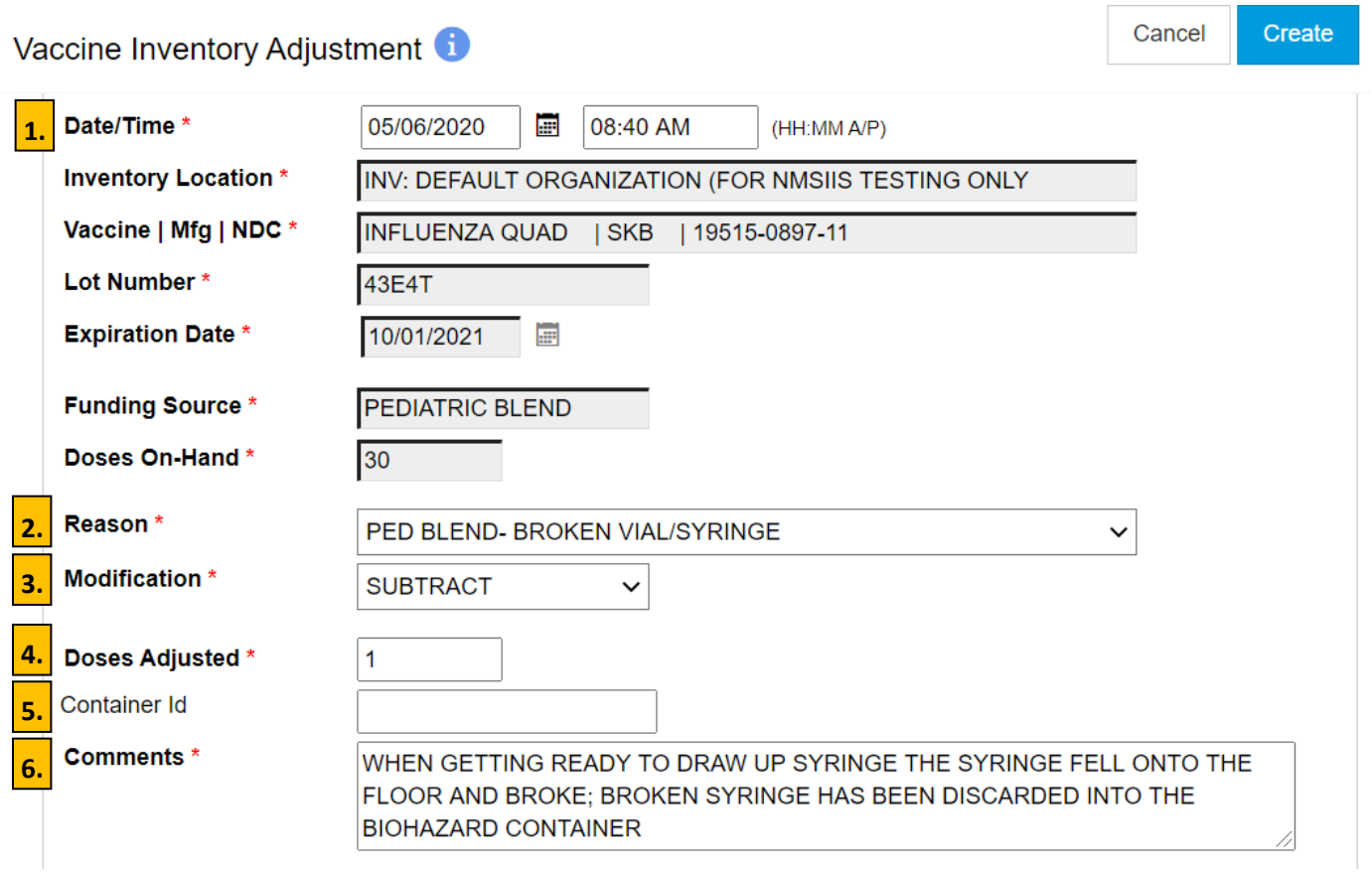
Locate the vaccine with the wasted dose or doses.

Then click on *Action* drop-down for the vaccine with wasted dose or doses

Next click on *Adjustment*



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1. Enter the *Date and time* for the adjustment

   Note: All adjustments must be entered prior to physical count for reconciliation. By doing all adjustments prior to physical count the adjustment will fall within your reconciliation time frame.

2. On the *Reason* drop-down the only reasons that should ever be chosen for VFC vaccines are any of the first three options reading "PED BLEND" for the wasted vaccine. *No other options should ever be used.*

   Note: The option ***Private Inventory*** is **only** for those providers who reconcile privately purchased Inventory.

3. Click on the drop-down for *Modification* and select *subtract*

4. Click on *Doses Adjusted* and type in the number of doses that were wasted

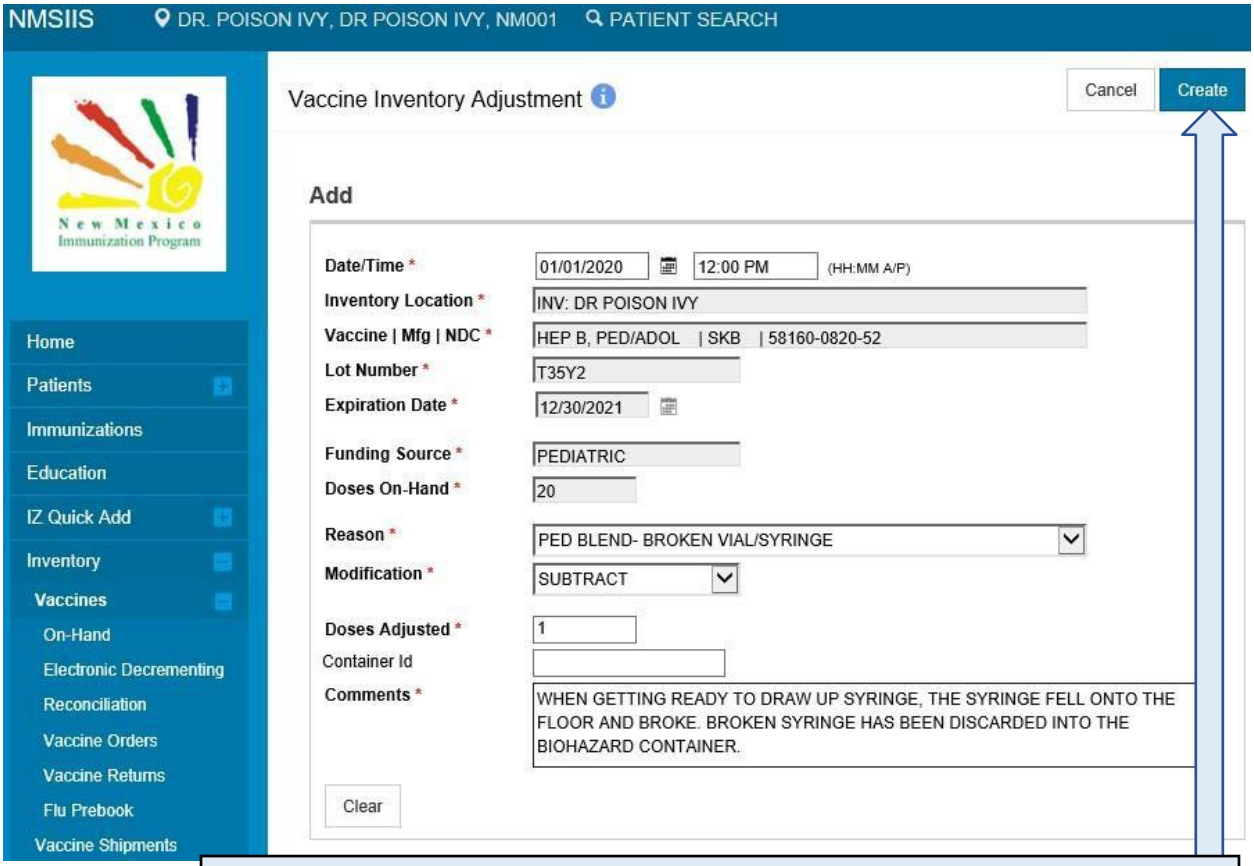
5. On your *Vaccine Inventory Adjustment* all the fields must be completed except for *Container ID – this field will be left blank*

6. Click in the *Comments* section and type in a detailed description of what happened to the dose or doses

   Note: The Comments Field is required and will accommodate up to 250 characters

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When all the fields have been completed for the Vaccine Inventory Adjustment (except for Container Id) click on *Create* at the top right-hand corner of your screen



Click on *Create* at the top right-hand corner of your NMSIIS screen

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Policies and Procedures

Eligibility and Billing

Providers administering COVID-19 vaccines are not permitted to bill the patient for the cost of the vaccine. Vaccine administration fees may be charged to patient's insurance; however, providers must not deny administration of COVID-19 vaccine to a patient based on inability to pay this fee.

Vaccine Orders and Inventory

Providers should order quantities of vaccine they can realistically expect to use and should monitor the expiration dates of vaccines in their inventory. If your inventory includes short-dated vaccine that you do not expect to use before it expires, please contact the Immunization Program; we will attempt to transfer the doses to another provider.

Providers are expected to monitor their vaccine supply and reconcile their inventory weekly. Instructions for completing a reconciliation can be found in NMSIIS under Reports -> New Mexico Forms and Documents -> COVID Reconciliation Process 2020

Vaccine Returns

Providers should use or transfer short-dated doses to avoid allowing vaccine to expire. However, if vaccine doses in your inventory are spoiled or expired, please submit a return and a Troubleshooting Report (TSR), if needed, in NMSIIS as soon as possible. This will generate an address label which you will use to return the expired doses. Instructions on submitting a return can be found above.

Storage and Handling

All staff working with publicly funded vaccines should be trained in vaccine storage and handling protocols. Refrigerators should maintain temperatures between 2° C and 8° C (36° F and 46° F); freezers should maintain temperatures between -50° C and -15° C (-58° F and +5° F) and -70° C to -90° C (-94° F and -130° F) for Ultra-cold storage. Every vaccine storage unit must have a functioning temperature monitoring device. The New Mexico Immunization Program **strongly** recommends the use of digital data loggers (DDLs) for monitoring unit temperatures. If a DDL is not used, unit temperatures should be recorded on a temperature log at least twice daily. If a temperature excursion occurs, providers must complete an Immunization Troubleshooting Record (TSR) and contact the New Mexico Immunization Program at covid.vaccines@state.nm.us for instructions.

Emergency Vaccine Management Plan

The New Mexico Immunization Program requires that providers develop and maintain an Emergency Vaccine Management Plan. A sample, fillable Plan can be found in NMSIIS Reports. The completed Plan should be stored near the vaccine storage unit(s) and updated as needed. Returning the completed plan to the Immunization Program is not required.

Temperature Excursion Protocol. In the event of an out-of-range temperature incident, consult and follow your Emergency Vaccine Management Plan. Complete the COVID-19 Immunization Troubleshooting Record form, following all instructions on page 1 of that form and return to the Immunization Program via email covid.vaccines@state.nm.us. **Do not** return, discard, or administer vaccines until the NM Immunization Program provides further instructions.

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Contact Us

Please direct questions and comments to:

New Mexico Immunization Program – COVID-19

Email: covid.vaccines@state.nm.us

NMSIIS Help Desk

1-833-882-6454

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Appendices

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Resources for COVID-19 Vaccine Providers

NMSIIS / Immunization Program Help Desk: 1-833-882-6454

COVID-19 Immunization Program email: covid.vaccines@state.nm.us

NMSIIS Reports: https://nmsiis.health.state.nm.us/webiznet_nm/WebCode/Reports/ListReports.aspx

Department of Health COVID-19 website: https://cv.nmhealth.org/

NMDOH COVID-19 hotline: 1-855-600-3453

CDC COVID-19 Vaccine Training for Healthcare Professionals: Information about the module can be found at: https://www.cdc.gov/vaccines/covid-19/vaccination-resources.html. The direct link to the module is at: https://www2.cdc.gov/vaccines/ed/covid19/.

New Mexico COVID-19 Updates: https://www.newmexico.gov/category/health/

Together New Mexico website: https://www.togethernm.org/

CDC COVID-19 website: https://www.cdc.gov/coronavirus/2019-ncov/index.html

VaccineFinder website: https://vaccinefinder.org/

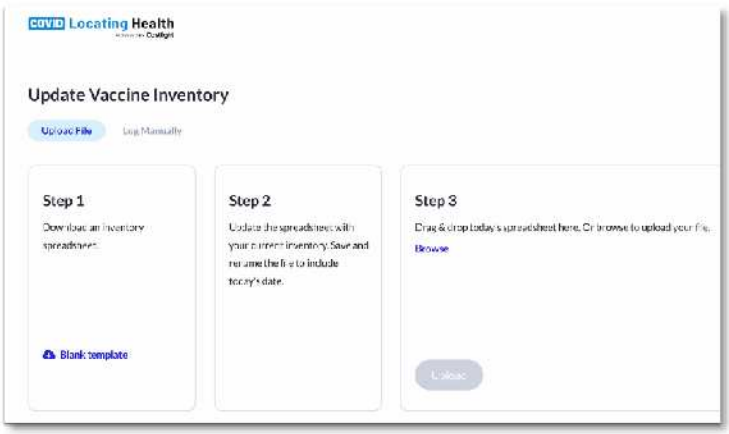
U.S. Food and Drug Administration: https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/emergency-use-authorization

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VaccineFinder COVID-19 Vaccine Supply Reporting and Finder System

What is VaccineFinder?

The VaccineFinder[1] platform helps the public find providers who offer select vaccines in communities across the United States. VaccineFinder's data are sourced via the provider platform, Locating Health.



The new COVID Locating Health Provider Platform will allow for easy reporting

VaccineFinder's role in the COVID-19 response

VaccineFinder and Locating Health provider platforms will serve two roles in the COVID-19 Vaccination Program.

1. **Inventory reporting** (required for all providers): COVID-19 vaccination providers will report on-hand COVID-19 vaccine inventory each day.
2. **Increase access to COVID-19 vaccines** (optional for providers): Once there is enough supply, COVID-19 vaccination providers may choose to make their location visible on VaccineFinder, making it easier for the public to find provider locations that have COVID-19 vaccine available. CDC will be directing the public to use VaccineFinder to find locations offering COVID-19 vaccine.

What providers need to know

The COVID-19 Vaccination Program Provider Agreement requires providers to report vaccine supply information as directed by CDC. Organizations or provider locations receiving COVID-19 vaccine should report supply information daily to VaccineFinder using the online COVID Locating Health Provider Portal. Vaccination providers can report manually via the secure COVID Locating Health Provider Portal; or via an automated secure data transfer directly to the COVID Locating Health Platform.

When COVID-19 vaccine supply is limited, data reported will only be used for vaccine inventory information—not as a resource to help the public find vaccine. When vaccine is more widely available, providers will be notified that the VaccineFinder public-facing website will be turned on to show COVID-19 vaccination locations. This will allow the public to know where they can go to receive a COVID-19 vaccination. Providers will be able to choose whether their location is displayed on the website. For participating providers, the VaccineFinder website will show the provider's location and contact information and will indicate that the provider has vaccine available. Specific inventory information will not be available to the public.

VaccineFinder onboarding and reporting

The process below outlines onboarding and reporting for VaccineFinder via the COVID Locating Heath Provider Portal. The reporting structure chosen by each organization must be maintained for the duration of the COVID-19 Vaccination Program.

1. COVID-19 vaccination providers must be registered in CDC's Vaccine Tracking System (VTrckS). Providers registered in VTrckS will receive an email from the COVID Locating Health Provider Portal with instructions for completing the enrollment process. This email will be sent to the provider organization's email address submitted in the provider enrollment form.
2. Organizations will determine whether they will report daily on-hand inventory on behalf of all their provider locations (e.g., a clinic headquarters office reporting on behalf of satellite clinics), or whether individual provider locations are responsible for reporting this information. Once a determination is made, it must be maintained for the duration of the COVID-19 Vaccination Program.

[1] VaccineFinder (www.vaccinefinder.org) is maintained by HealthMap (https://healthmap.org) in partnership with CDC and Castlight Health.

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- Provider locations designated as inventory reporting entities by their organizations will receive instructions for completing the COVID Locating Health Provider Portal enrollment process.

3. Organizations enrolled in the COVID Locating Health Provider Portal can view their approved provider location details and update inventory within the portal. Provider locations identified as inventory reporting entities will enroll to access their COVID Locating Health Provider Portal account and report daily COVID-19 vaccine inventory.
4. Additional details on steps for onboarding will be available on November 16, 2020.

Existing VaccineFinder accounts: What if I already report data for routine vaccines via my existing Locating Health account? Can I just use that account?

All COVID-19 vaccination providers will need to create a new account in the COVID Locating Health Provider Portal specifically for COVID-19 vaccine information.

- There will initially be two Locating Health Provider Portals (plans are in place to integrate these provider portals into one platform in the coming months):
  - **Locating Health Provider Portal** for reporting seasonal and routine vaccine availability
  - **COVID Locating Health Provider Portal** for required daily reporting of on-hand COVID-19 vaccine inventory quantities
- **If you are reporting manually**:
  - Organizations will continue to access the existing Locating Health Provider Portal to update availability of influenza and other routine vaccines and medications.
  - Organizations will log into the new COVID Locating Health Provider Portal to submit daily COVID-19 vaccine inventory reports for each participating provider location (online form or batch upload).
- **If you are using automated reporting**:
  - Organizations will continue to send data files to VaccineFinder to update availability of influenza vaccines and routine adult and child vaccines and medications at their provider locations.
  - For COVID-19 reporting, organizations will add COVID-19 vaccination providers and COVID-19 vaccine quantities to their existing data file and send to VaccineFinder via the usual process.

How the public uses VaccineFinder

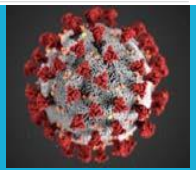
VaccineFinder's goal is to make it easy for people to find a nearby location where they can be vaccinated. For 11 years, the VaccineFinder website has helped people find clinics that offer seasonal influenza and routine adult and child vaccinations. Once COVID-19 vaccines are widely available, VaccineFinder will help people find locations where they can receive COVID-19 vaccine.At the website, a person may enter their ZIP code and search for a provider that has a specific vaccine in their area. VaccineFinder displays mapped results of locations and vaccine availability.

***To register your location in VaccineFinder**:*

For COVID-19 vaccination, you must coordinate with your organization or jurisdiction's immunization program.

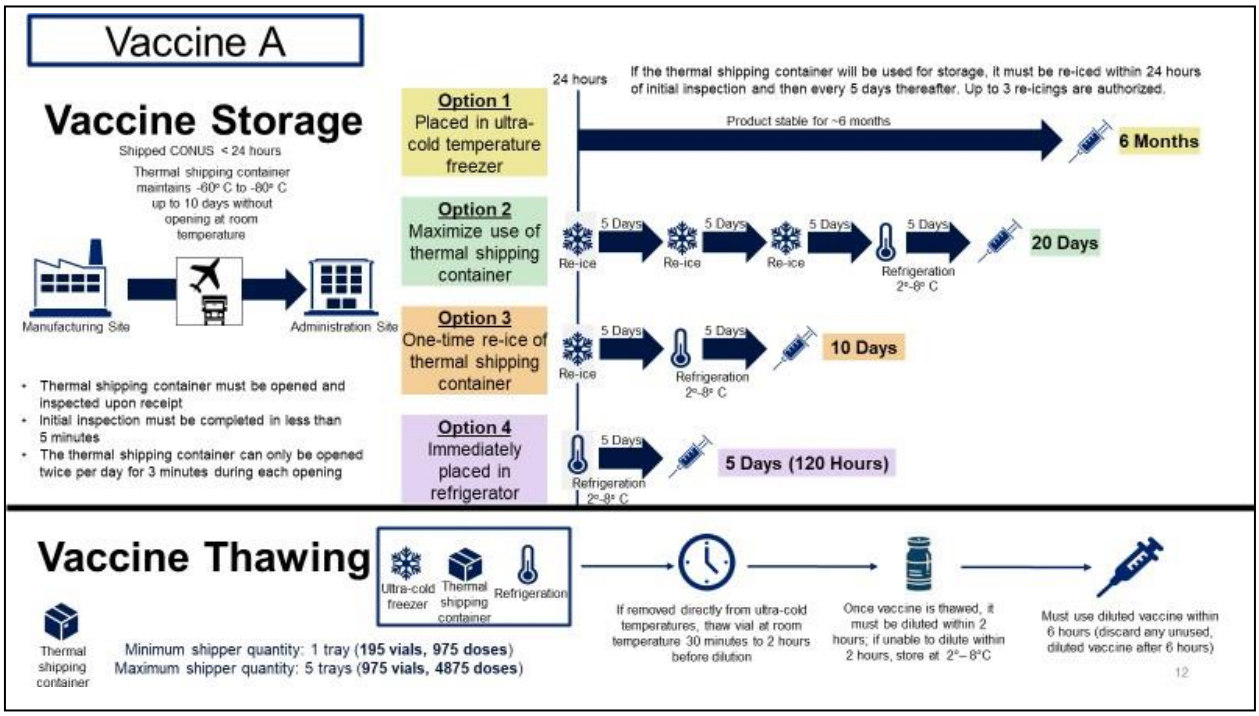
For routine vaccinations, register at https://locating.health/register.

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The following materials are being provided to inform planning activities

Vaccine A *Storage and Handling Guide*



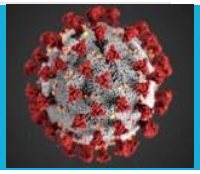
Vaccine A vaccination provider site archetypes for shipment timing and site planning

Site Types for Vaccine A Product

Vaccination provider site	Ordering assumptions			Operating assumptions				
	Order size	Storage conditions	Patient flow	Number of immunizers	Patients per immunizer	Hours per day	Vaccines per day	Shipment model
A – large outpatient center (mass vx)	1 tray (975 doses)	Thermal box with dry ice, 2-8C fridge, for product estimated at site (5 days)	~500/day	10 immunizers	6 patients/hour (~10 min/Vx)	8 hours	480 vaccinations	1 tray; 2-3 times per week
B – hospital or outpatient center	1 tray (975 doses)	Ultra-cold freezer, Thermal box with dry ice, 2-8C fridge, for product estimated at site (5 days)	Variable	4 immunizers	6 patients/hour (~10 min/Vx)	8 hours	192 vaccinations	1 tray; every week
C – large hospital with affiliated outpatient center	5 trays (4,875 doses)	Ultra-cold freezer, Thermal box with dry ice, 2-8C fridge, for product estimated at site (5 days)	Variable	7 immunizers (hospital outpatient clinic)	6 patients/hour (~10 min/Vx)	8 hours	340 vaccinations	1 tray; 1-2 times a week
D – outdoor parking lot vaccination hub at large retail pharmacy	1 tray (975 doses)	2-8C fridge, for product estimated at site (5 days)	~200/day	5 immunizers	6 patients/hour (~10 min/Vx)	N/A	240 vaccinations	1 tray; every week
E – mobile vaccination in targeted geographic areas	5 trays (4,875 doses)	2-8C fridge, for product estimated in mobile unit (5 days)	Variable	3 immunizers	6 patients/hour (~10 min/Vx)	Not specified	150 vaccinations	1 tray; every week

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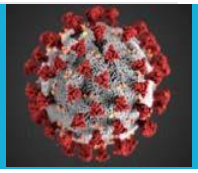
CDC COVID-19 Vaccine Product Information



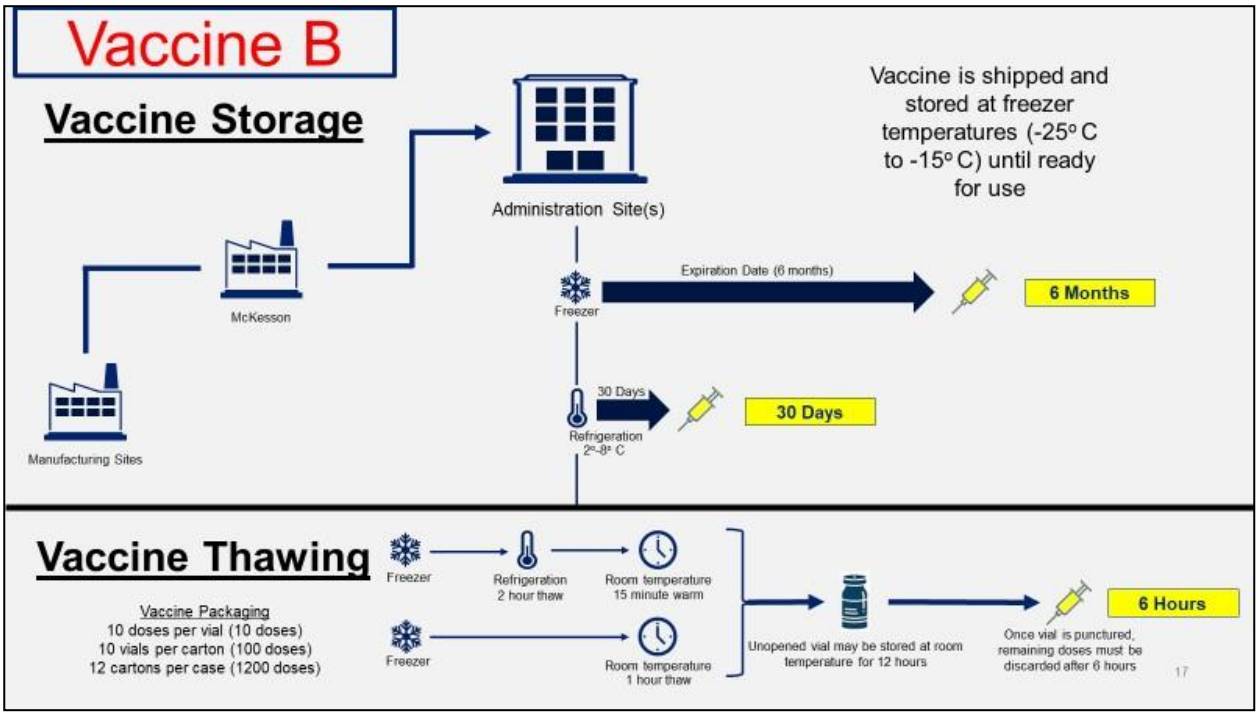
Site Types for Vaccine A Product

Vaccination provider site	Order size	Storage conditions	Patient flow	Number of immunizers	Patients per HCP	Hours per day	Vaccines per day	Shipment model
F – large indoor spaces not used during pandemic (convention hall)	5 trays (4,875 doses)	Thermal box with dry ice, 2-8C fridge, for product estimated at site (5 days)	Variable	10 immunizers	6 patients/hour (~10 min/Vx)	8 hours	480 vaccinations	2-3 trays; every week
G – Drive-through vaccination clinic	3 trays (2,925 doses)	Thermal box with dry ice, 2-8C fridge, for product estimated at site (5 days)	Variable	10 immunizers	6 patients/hour (~10 min/Vx)	8 hours	480 vaccinations (by 7 days)	2-3 trays; very week

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Vaccine B *Storage and Handling Guide*



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Direct-Ship Vaccine and Ancillary Kit

Pfizer Vaccine (Direct Ship)

Manufacturer	Pfizer
NDC # in VTrckS	59267-1000-02
Tray dimensions	229mm x 229mm x 40mm (approximately 9in x 9in x 1.5in)
Minimum order size and increment	975 doses
Presentation	5-dose multidose vial/195 MDV per tray
Items automatically added to your VTrckS order when you select this vaccine	Combined ancillary supply kit for administration and mixing (includes 0.9% preservative-free normal saline diluent)
Age indications	TBD
Vaccination schedule	2-dose series separated by at least 21 days
On-site vaccine storage	• -80°C to -60°C (-112°F and -76°F) in ultracold storage unit • -80°C to -60°C (-112°F and -76°F) in the original thermal shipping container with dry ice recharges. Please allow for forthcoming information on the maximum time for storage in these conditions. • 2° C to 8°C (36° F to 46°F) in a storage unit for up to 5 days (120 hours)
Additional information	• Vaccine will be shipped in a container that includes dry ice. Thermal shipping container dimensions are 400mm x 400mm x 560 mm (approximately 15 3/4in x 15 3/4in x 22in). • A thermal shipping container holds up to 5 cartons/trays. • If using the thermal shipping container to store vaccine, add dry ice pellets (9 mm to 16 mm) within 24 hours of delivery and every 5 days or as needed to maintain temperatures. • Unless a provider opts out, dry ice will be delivered within 24 hours of vaccine delivery to refill the thermal shipping container for the first re-ice only. Additional dry ice will not be provided. Locate a dry ice source if planning to use the shipping container to store vaccine for more than 5 days. • Do not use or store dry ice or liquid nitrogen (LN_2) in confined areas, walk-in refrigerators, environmental chambers or rooms without ventilation. A leak in such an area could cause an oxygen-deficient atmosphere. • A full shipping container with vaccine and dry ice weighs approximately 80 pounds.

Pfizer: https://www.pfizer.com/

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Combined Ancillary Supply Kit for Administration and Mixing (Direct Ship)

Kit description	Combined kit with small syringes for vaccine administration, mixing supplies, and diluent		
NDC # in VTrckS	11111-0006-02 (Adult)		
Kit dimensions/weight	24 in x 20 in x 24 in/40 lbs		
Minimum order size and increment	Kit to support administration of 975 doses (plus overage), including 0.9% preservative-free normal saline diluent		
Accompanies 0.3mL-dose vaccines	Pfizer		
Order Intention	Initially only adult kits will be available, when authorized for use in younger populations, pediatric and mixed (pediatric and adult) will be available for ordering.		
Contents	**Adult Kit*** • 829 needles (22-25G X 1") • 200 needles (22-25G X 1.5") • 205 mixing needles (21-25G X1.5") • 1024 syringes (1mL) • 205 syringes (3mL or 5mL) • 2458 alcohol pads • 1000 vaccination record cards • 10 needle gauge and length charts • 20 face shields • 40 surgical masks • 200 Diluent vials	**Pediatric Kit*** • 1024 needles (25G X 1") • 205 mixing needles (21-25G X1.5") • 1024 syringes (1mL) • 205 syringes (3mL or 5mL) • 2458 alcohol pads • 1000 vaccination record cards • 10 needle gauge and length charts • 20 face shields • 40 surgical masks • 200 Diluent vials	**Mixed Kit*** • 926 needles (25G X 1") • 100 needles (22-25G X1.5") • 205 mixing needles (21-25G X1.5") • 1024 syringes (1mL) • 205 syringes (3mL or 5mL) • 2458 alcohol pads • 1000 vaccination record cards • 10 needle gauge and length charts • 20 face shields • 40 surgical masks • 200 Diluent vials
Additional information	• Products and brands for kit components may vary. • All needles for vaccine administration are safety needles. • Mixing needles are conventional. • Due to the limited supply of needles and syringes, specification of preferences for needles or syringes is not feasible. • Kit and pallet configuration o 1 kit = 975 vaccinations (plus overage) o 1 pallet = 8 kits (supports 7,800 vaccinations, plus overage)   For more information about ancillary kit components: COVID-19 Vaccine Ancillary Supply Kit Guidance		

*The total number of needles in each adult, pediatric, and mixed combined ancillary supply kit for administration and mixing will vary (adult–1,029; pediatric–1,024; mixed–1,026). The difference in total number is related to increasing the kit build efficiency.

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Dry Ice Kit (Direct Ship)

Kit description	Dry ice kit with starter materials
NDC # in VTrckS	11111-0007-03
Kit dimensions/weight	TBD
Minimum order size and increment	Kit to support initial dry ice recharge of one thermal shipping container
Accompanies ultracold vaccine	Pfizer
Contents	• Dry ice (weight and pellet size requested from the Strategic National Stockpile) • Gloves for working with dry ice(1 pair) • Face shield (1) • Ice scoop (1) • OSHA dry ice safety card (1)
Additional information	• Products and brands for kit components may vary. -

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Centrally Distributed Vaccines and Ancillary Kits*

Vaccines (Centrally Distributed)

Manufacturer	Moderna
NDC # in VTrckS	80777-0273-99
Carton dimensions	53mm x 53mm x 137mm (approximately 2in x 2in x 5 3/8in)
Minimum order size and increment	100 doses
Presentation	10-dose multidose vial/10 MDV per carton
Items automatically added to your VTrckS order when you select this product	Ancillary supply administration kit: standard syringe
Vaccination schedule	2-dose series separated by at least 28 days
Age indications	TBD
On-site vaccine storage	• -25°C to -15°C (-13°F to 5°F) in vaccine storage unit • 2° to 8°C (36° to 46°F) in vaccine storage unit for up to 30 days if the vial is not entered. • Freezer temperature settings will require adjustment if storing this vaccine and varicella-containing vaccines in the same unit. The temperature range for this vaccine is limited compared to varicella-containing vaccines.

*Pfizer's COVID-19 vaccine is not centrally distributed; it is distributed directly from the manufacturer. Please refer to the next section for information on Pfizer COVID-19 vaccine.

Moderna: https://www.modernatx.com/

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Ancillary Supply Administration Kit: Standard Syringe (Centrally Distributed)

Kit description	Standard syringe kit for vaccine administration
NDC # in VTrckS	11111-0001-01 (Adult)
Kit dimensions/weight	14 in x 13 in x 9 in/3.5 lbs (standard ancillary adult kit)
Minimum order size and increment	Kit to support administration of 100 doses (plus overage)
Accompanies 0.5mL-dose vaccines	Moderna
Order Intention	Initially only adult kits will be available, when authorized for use in younger populations, pediatric and mixed (pediatric and adult) will be available for ordering.
Contents	**Adult Kit** • 85 needles (22-25G x 1") • 20 needles (22-25G x 1.5") • 105 syringes (1mL or 3mL) • 210 alcohol pads • 100 vaccination record cards • 1 needle gauge and length chart • 2 face shields • 4 surgical masks **Pediatric Kit** • 105 needles (25G x 1") • 105 syringes (1mL or 3mL) • 210 alcohol pads • 100 vaccination record cards • 1 needle gauge and length chart • 2 face shields • 4 surgical masks **Mixed Kit** • 95 needles (25G x 1") • 10 needles (22-25G x 1.5") • 105 syringes (1mL or 3mL) • 210 alcohol pads • 100 vaccination record cards • 1 needle gauge and length chart • 2 face shields • 4 surgical masks
Additional information	• Products and brands for kit components may vary. • All needles for vaccine administration are safety needles. • Due to the limited supply of needles and syringes, specification of preferences for needles or syringes is not feasible. • Kit and pallet configuration ○ 1 kit = 100 vaccinations (plus overage) ○ 1 pallet = 36 kits (supports 3,600 vaccinations, plus overage)  For more information about ancillary kits components: COVID-19 Vaccine Ancillary Supply Kit Guidance

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From: Pamela Heltner <pheltner@co.otero.nm.us>
Sent: Tuesday, January 12, 2021 2:25 PM EST
To: gmatherly <gmatherly@co.otero.nm.us>; Couy Griffin <cgriffin@co.otero.nm.us>; vmarquardt@co.otero.nm.us <vmarquardt@co.otero.nm.us>
Subject: FW: County Detention Center Vaccine Rollout Phase 1b
Attachment(s): "COVID Vaccine Provider Guide 12.12.20.pdf"

FYI

Pamela Heltner, CPO, CPS
County Manager
1101 New York Ave. Room 106
Alamogordo, NM 88310
Tel: 575-437-7427
Fax: 575-443-2928
pheltner@co.otero.nm.us

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From: Bonnie Cummings <BCummings@nmcounties.org>
Sent: Tuesday, January 12, 2021 11:37 AM
To: Nvance@teamcenturion.com; Falcantara@teamcenturion.com; Ian Fletcher <ian.fletcher@catroncountynm.gov>; vanessa.torrez@mycorrhealth.com; mary.zold@mycorrhealth.com; dchavez.roadrunnerhealthsvc@gmail.com; dochristy@wellpath.us; jason.duran@corizonhealth.com; tbannister@co.eddy.nm.us; pcastillo@VitalCoreHS.com; Emartin@vitalcorehs.com; Jesus.casas@csgprograms.com; gera.johnson@mycorrhealth.com; KatOHSA@co.otero.nm.us; cathy.betrus@mycorrhealth.com; heather.martinez@quaycounty-nm.gov; roadrunnerhealthservices@outlook.com; L.dugar@roadrunnerhealthservicesnm.com; dochristy@wellpath.us; adriel.rodriquez@mycorrhealth.com; tamara.capone@mycorrhealth.com; Donaldson@wellpath.us; kmsilva@santafecountynm.gov; michelle.papp@taoscounty.org; Michael.Sedgwick@corecivic.com; Vincent.Velarde@corecivic.com; Detention Administrators <detention-administrators@nmcounties.org>
Cc: Managers Affiliate <managers.affiliate@nmcounties.org>; Taylor Horst <thorst@nmcounties.org>; Steve Kopelman <skopelman@nmcounties.org>; Grace Philips <gphilips@nmcounties.org>; Mark Allen <mallen@nmcounties.org>; Greg Rees <grees@nmcounties.org>; Swatek, Joshua, DOH <Joshua.Swatek@state.nm.us>
Subject: County Detention Center Vaccine Rollout Phase 1b

Good Morning Detention Administrators and Medical Professionals,

We have received word from NM DOH indicating Detention Center populations are considered a congregate housing setting and will be considered phase 1b in the vaccine rollout. In preparation for phase 1b, NM DOH is asking facilities **that are willing and able to store and administer the vaccine** to have their medical provider register at: https://cvprovider.nmhealth.org/request-access.html.

We have no expectation that you will receive vaccine shipments anytime soon but NM DOH wants providers to start registering in the system in preparation to receive the vaccine.
I have attached a copy of the COVID Vaccine Provider Guide to prepare you for the storage requirements and other requirements. At this point, the vaccine most likely to be distributed to County Detention facilities will be the Moderna vaccine.

NM DOH understands that some facilities are not currently able to store and administer the vaccine. As a result, NM DOH is exploring solutions to support an alternative process in which counties can offer the vaccine to their detainee population.

Josh Swatek will be our point of contact for any questions on the vaccine rollout.

Josh Swatek (He/Him/His)
Public Health Division
Joshua.Swatek@state.nm.us
Cell: (505)629-9142

Thank you,

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Bonnie Cummings, CIC, CRM, CISR
Loss Prevention Manager
New Mexico Counties
Cell 505-385-1442

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Guidance for

COVID-19 Vaccine Providers

NEW MEXICO
DEPARTMENT OF
HEALTH

Updated: December 12, 2020

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Preparing for COVID-19 Vaccine – are you ready?

The preparations for immunizing New Mexicans against COVID-19 are underway. This will be an unprecedented statewide effort, and it could never be accomplished without your participation. Thank you!

We are grateful to all the medical providers, nurses, medical assistants, and the staff members who will continue to work tirelessly to make this effort a success.

To help you prepare and to guide you throughout the coming tasks and challenges of receiving, handling, and administering these life-saving vaccines, we have prepared this reference manual.

In it you will find information and resources, as well as many instructional guides that will help orient and support COVID-19 Provider Sites in their preparations to ensure proper vaccine storage and handling, and temperature monitoring.

To help navigate the tasks associated with the actual vaccine inventory management, we have also included important step-by-step information on topics such as vaccine ordering, shipments, and inventory reporting and reconciliation. There are also guides on what to do if vaccine expires, becomes spoiled, or there is vaccine wastage.

We thank you.
We are with you.
We look forward to working together to protect New Mexico against COVID-19.

The New Mexico Department of Health Immunization Program

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NM-OTERO-21-0275-A-000313

Vaccine Storage

On-site purpose-built refrigerator and freezer units are required for the storage of most presentations of COVID-19 vaccines. All vaccine storage **and transport** units must be entered as ***Assets*** in NMSIIS.

Please note: *dormitory-style* refrigerators will ***not*** be approved for vaccine storage. A *dormitory-style* refrigerator is defined as a small combination refrigerator/freezer unit that is outfitted with one exterior door and an evaporator plate (cooling coil), which is usually located inside an icemaker compartment (freezer) within the refrigerator.

The vaccines stored at Ultra-low temperatures – also referred to as ULT or ultra-cold vaccines – have unique handling and storage requirements. Please see the *COVID-19 Vaccine Information* in the appendices for information on ULT vaccine storage and handling and *note that this section does not apply to these special circumstances.*

Adding vaccine storage and transport units as ***Assets*** in NMSIIS

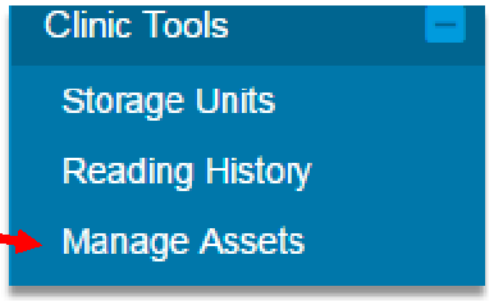
Add a Vaccine Storage Unit (Refrigerator, Freezer, or Transport Unit) in NMSIIS

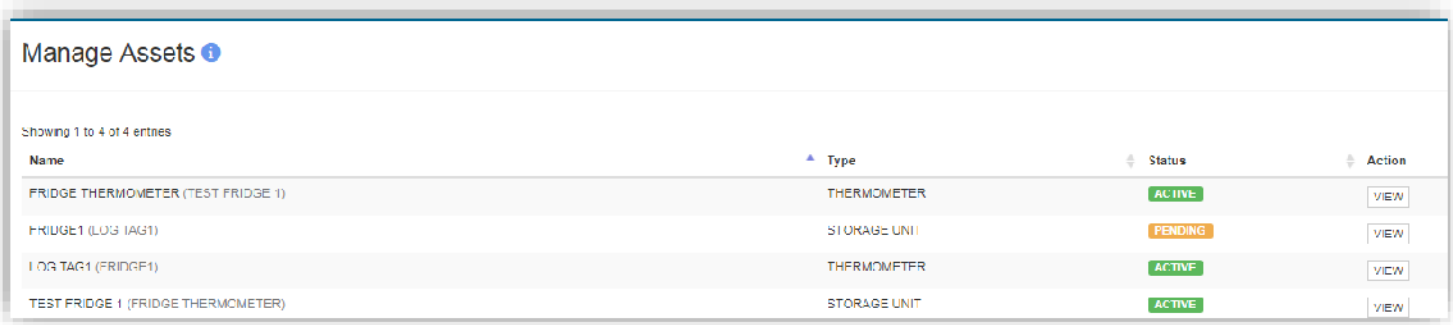
NOTE: Vaccine Transport Coolers must be added as Storage Units

Expand ***Clinic Tools***

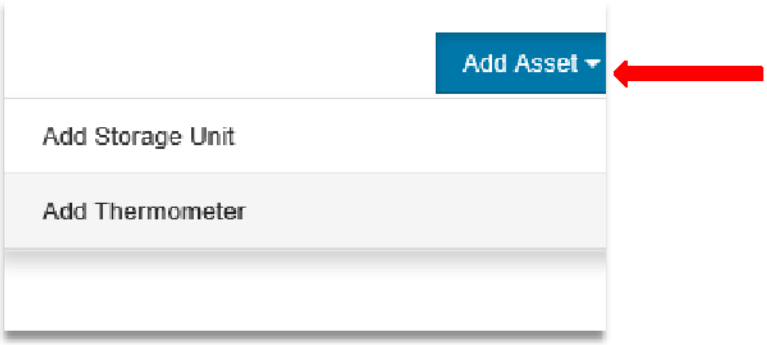
Click ***Manage Assets*** to display a summary of all active/inactive assets associated with the provider or clinic.

The summary list displays the unit name, type (thermometer or storage unit), and current status and looks like this:



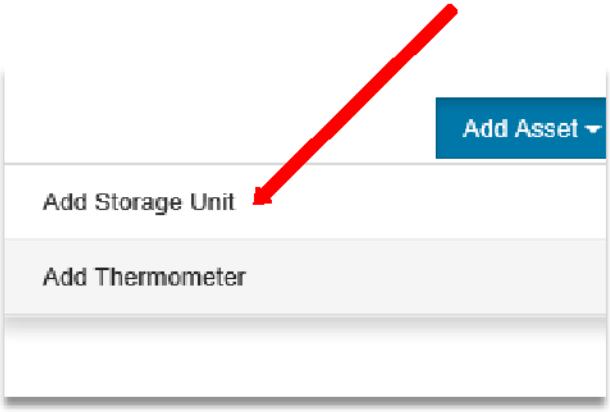


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To add a new asset (storage or transport unit, or thermometer) click the ***Add Asset*** button and on the drop-down select the asset type.

In this case we are adding a refrigerator, freezer, or transport cooler, so we will select ***Add Storage Unit***

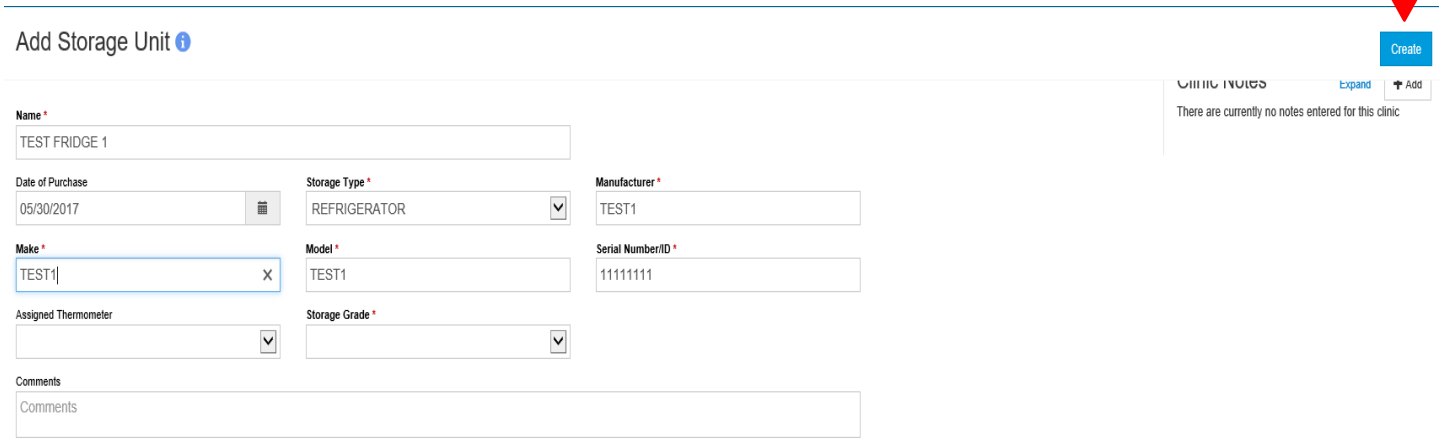


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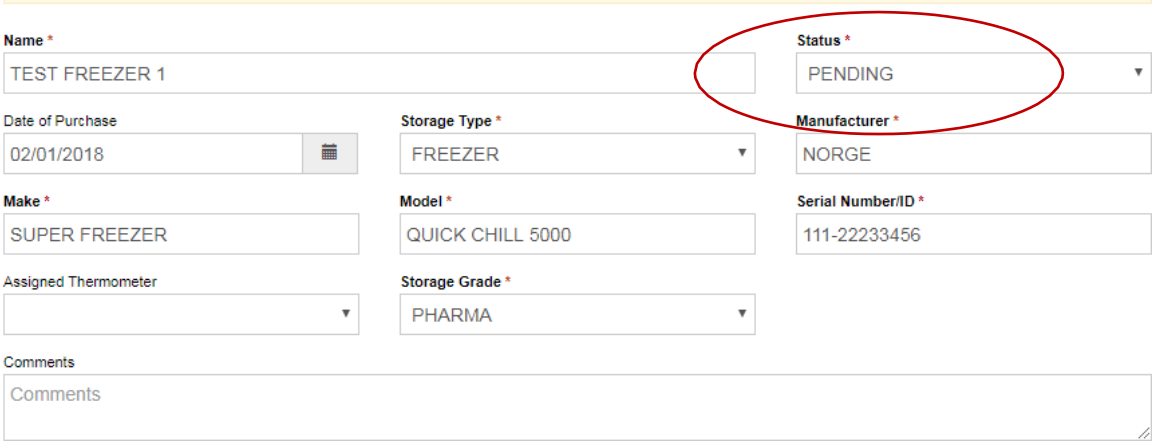
On the ***Add Storage Unit*** page enter all the required information pertaining to the unit you are adding. You can give your storage and transport units any name you wish. It is recommended that each unit have a different and identifiable name. For example, if you have two vaccine refrigerators, they should not both be named “Fridge” in NMSIIS, but rather something like “Fridge One” and “Fridge Two”.

When finished, click the ***Create*** button to save all entered information.

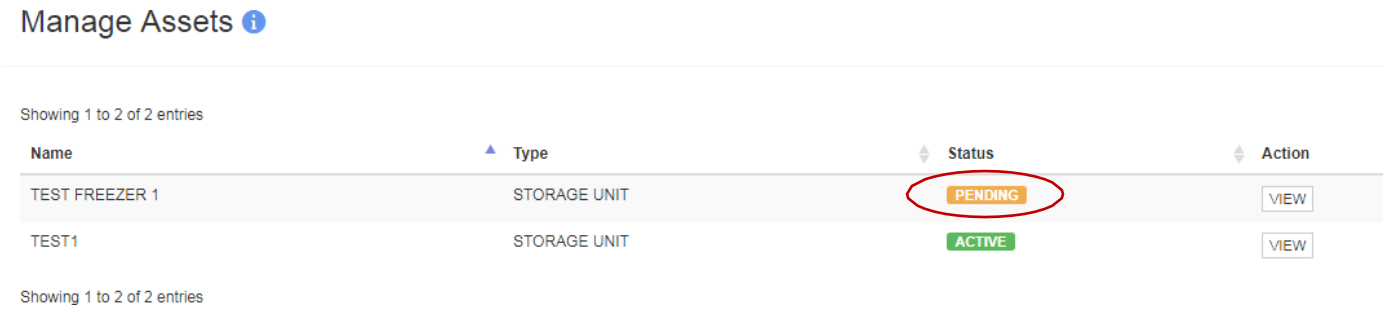
*NOTE: your information will not be saved if the **Create** button is not clicked*



In the ***View Storage Unit*** screen and you will see that the unit status is now “Pending”



The Immunization Program will ***automatically*** receive notification that you have added a storage unit and will then be able to activate it.

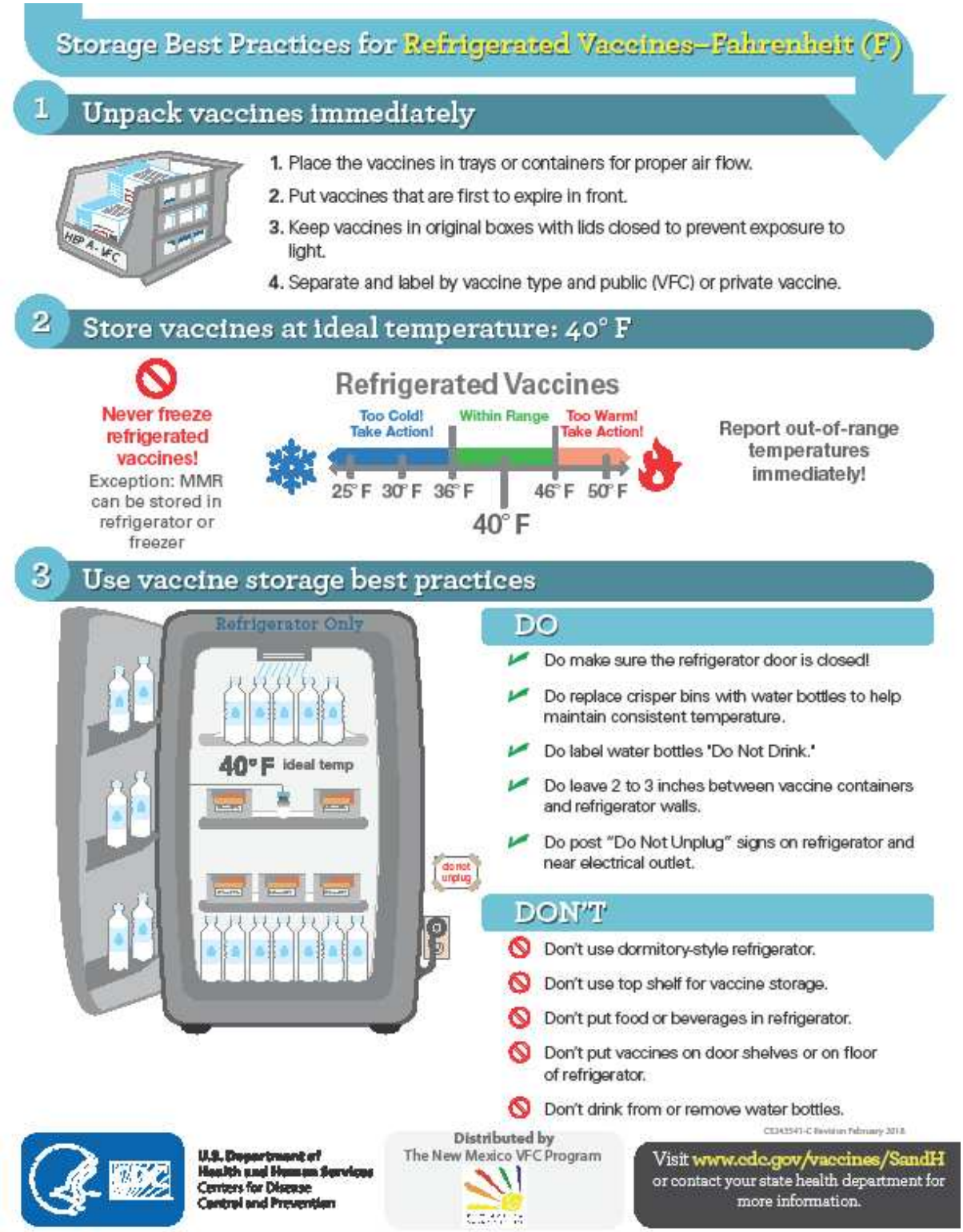


Please ***allow 48 hours*** for your unit to be activated; after 48 hours, check the status of your storage unit/s and if you confirm any are still in a ***Pending*** status (pictured above) please notify the Immunization Program via email at covid.vaccines@state.nm.us

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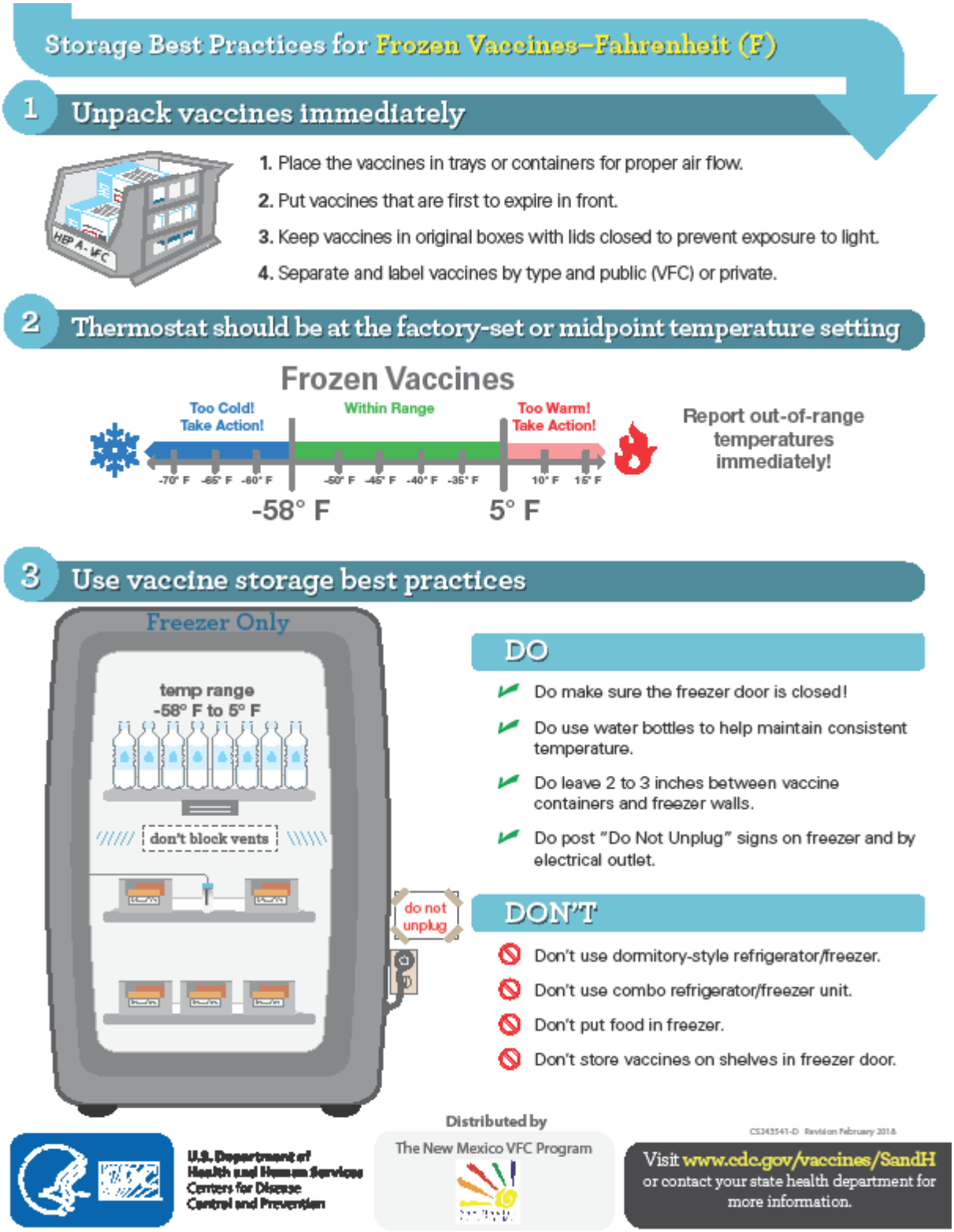
Vaccine Storage Best Practices

Refrigerated vaccine storage **Best Practices**



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Frozen vaccine storage **Best Practices**



NOTE: The vaccines stored at Ultra-low temperatures – also referred to as ULT or ultra-cold vaccines – have unique handling and storage requirements. Please see the Pfizer vaccine guidance in the appendices for detailed information.

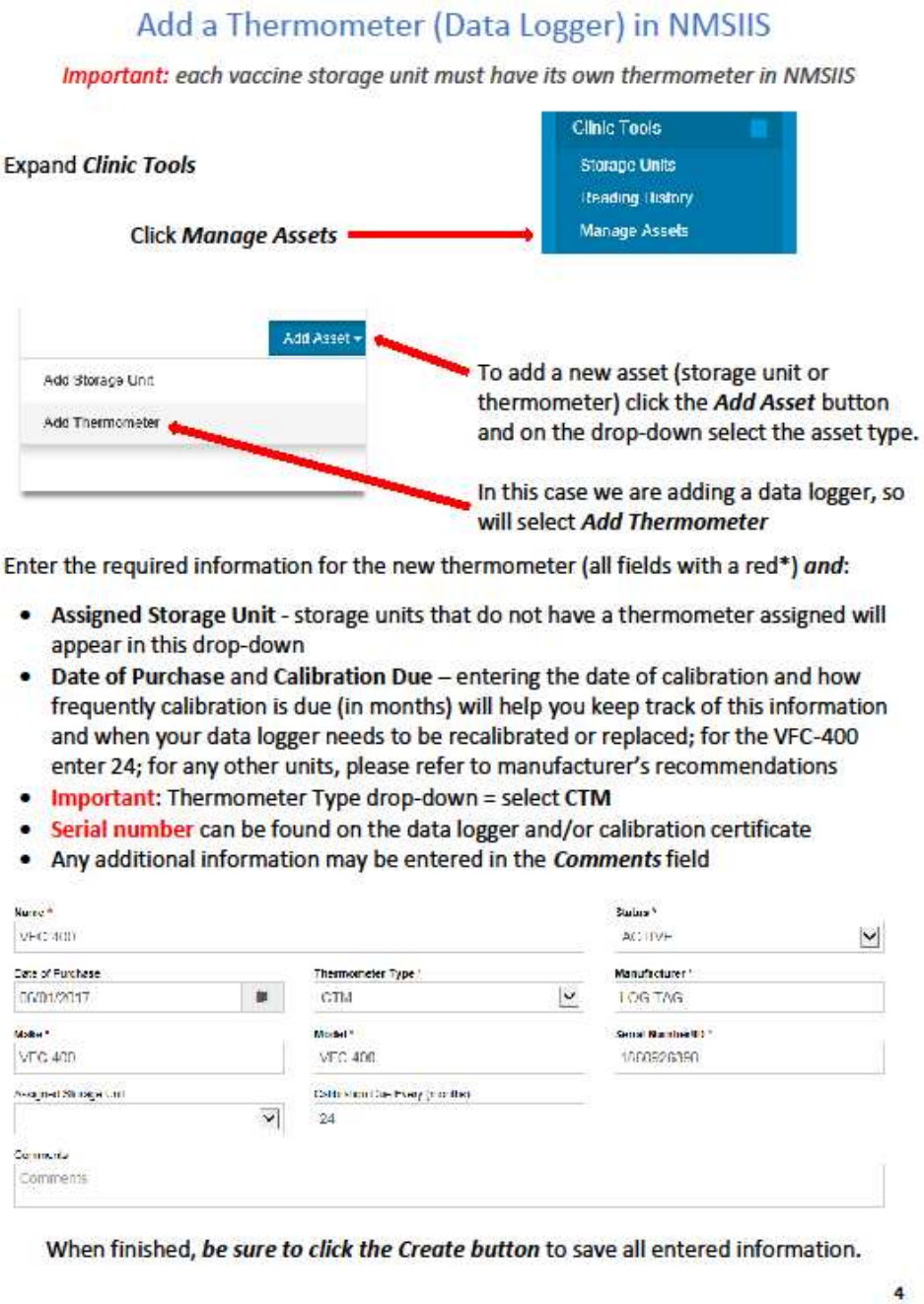
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Continuous Temperature Monitoring and Reporting

The ability to ensure continuous temperature monitoring of all presentations of COVID-19 vaccines, regardless of recommended storage temperature range, is a requirement for all participating sites in New Mexico.

Digital Data Loggers (DDL)

To meet the requirement of continuous temperature monitoring, New Mexico requires the use of digital data loggers on all storage and transport units used for COVID-19 vaccines. These devices must meet CDC requirements and generate temperature files that are compatible with direct upload into NMSIIS. All vaccine DDLs must be entered as ***Assets*** in NMSIIS as shown here:



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All DDL devices must meet CDC requirements and must generate temperature files compatible with direct upload into the New Mexico Immunization Registry (NMSIIS); the VFC400 data logger has been approved for use on vaccine refrigerators, freezers, and transport units; other devices will require pre-approval based on the results of temperature file compatibility assessment.

The software for the DDL will need to be installed and correctly configured to enable the proper use of the device and upload of the required temperature files. Please notify your IT staff in advance if their assistance is required for software installations at your site.

IMPORTANT: Use software version 2.9 Build 6

For the VFC400 device, the software settings are shown below:

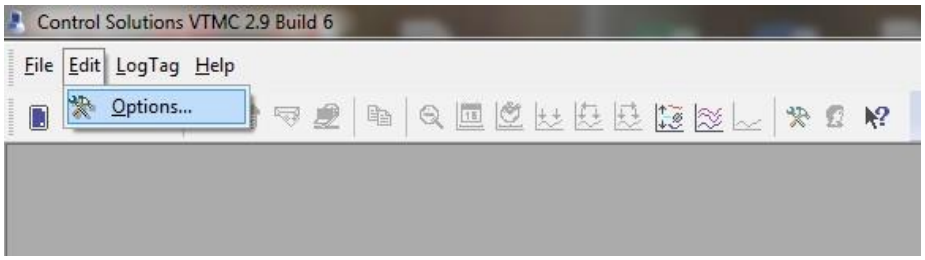
Control Solutions VTMC Software Settings

Please do not dock your data logger for this process.

This only needs to be done when the software is installed the first time (including if you switch computers)



Open the Control Solutions VTMC Software

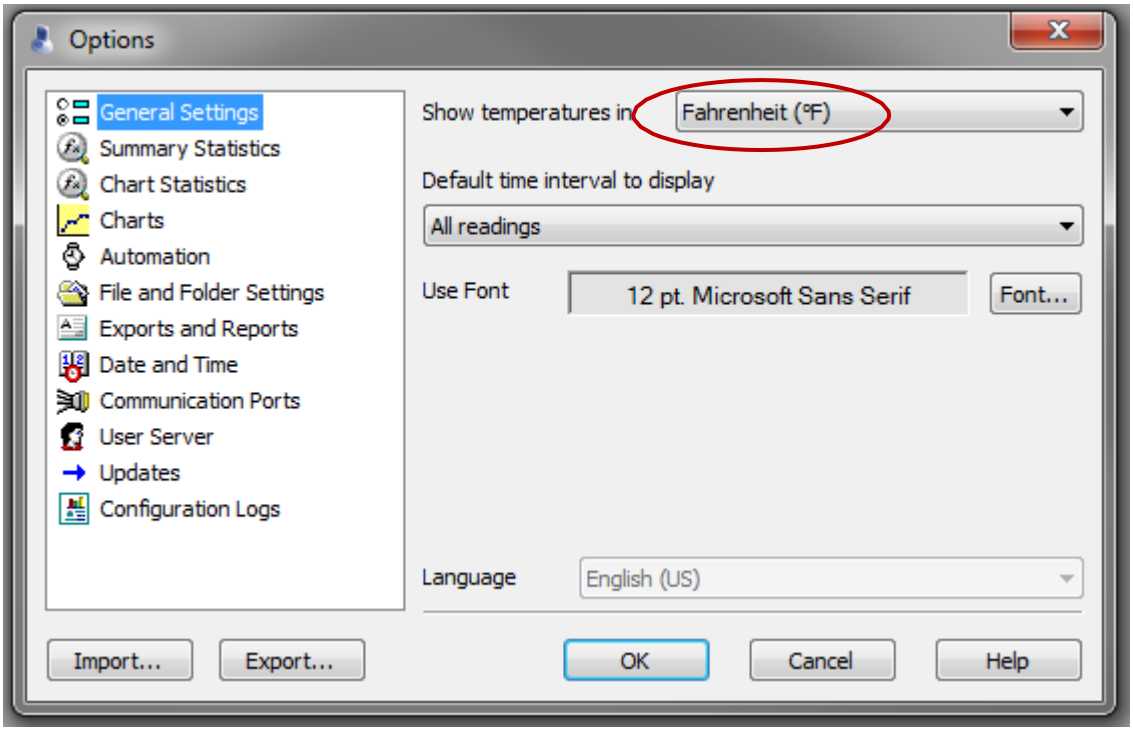


Go to ***Edit***, then ***Options***

Review the settings shown and ensure yours match these screenshots:

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GENERAL SETTINGS

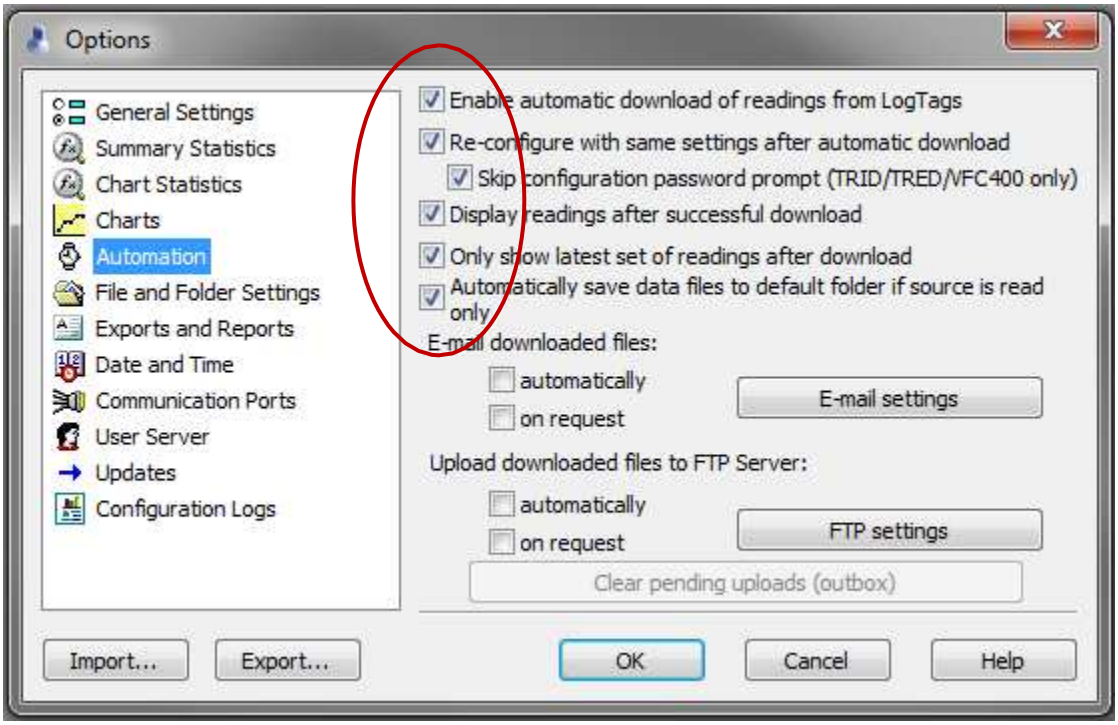


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AUTOMATION

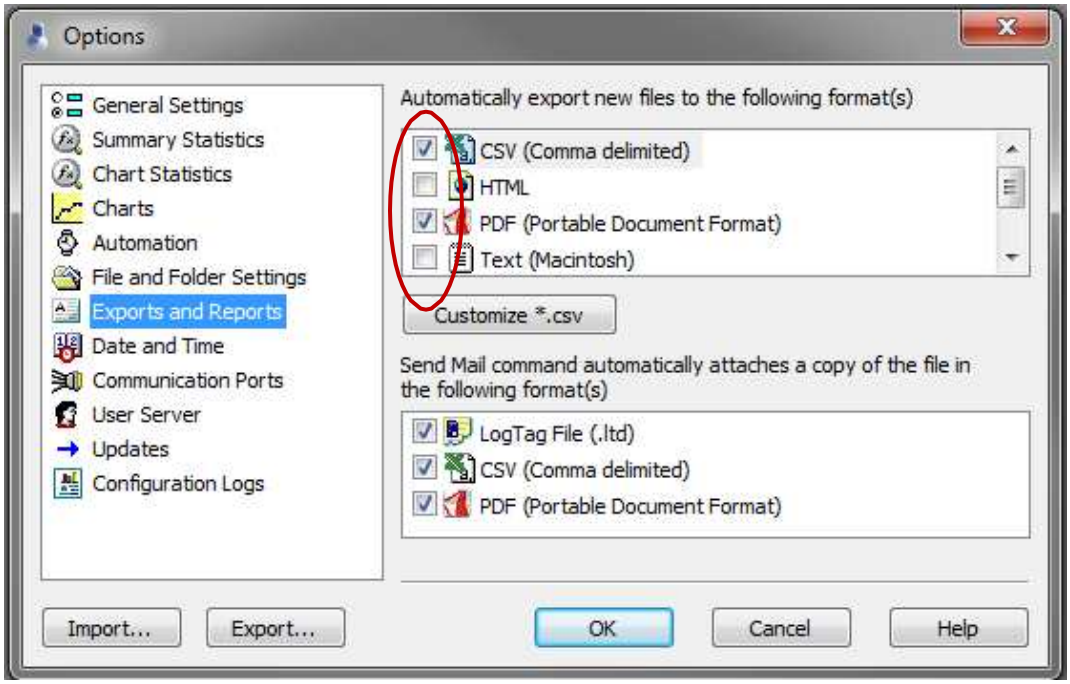
Please note that on this screen you may not see the third box (“Skip configuration password prompt”)

This is ***not a problem***; all other boxes should still be checked.



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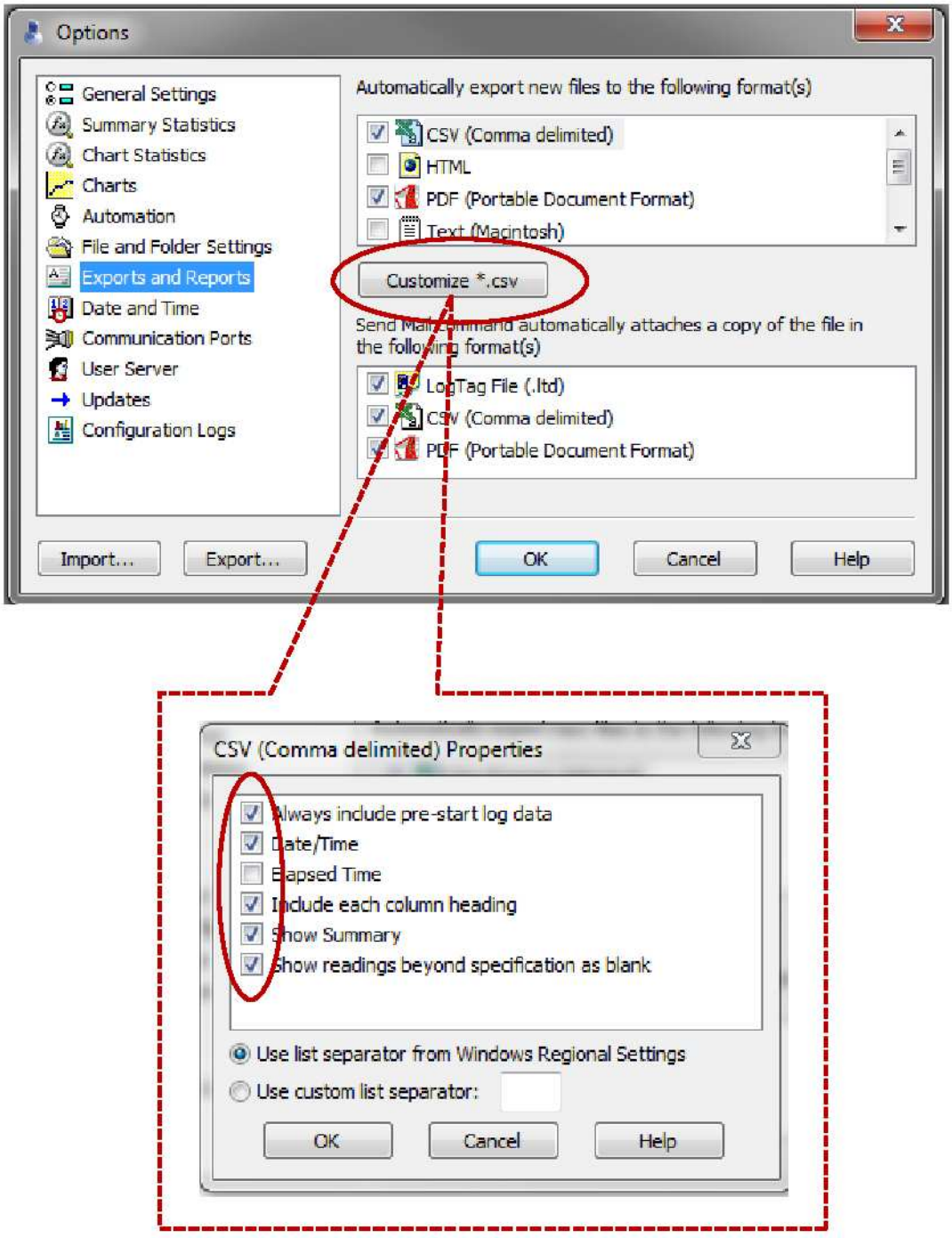
EXPORTS and REPORTS



When you have changed the settings for ***Exports and Reports*** shown above, the .pdf and the .csv files will save to your computer automatically when you dock your data logger (be sure to allow the data upload process to complete).

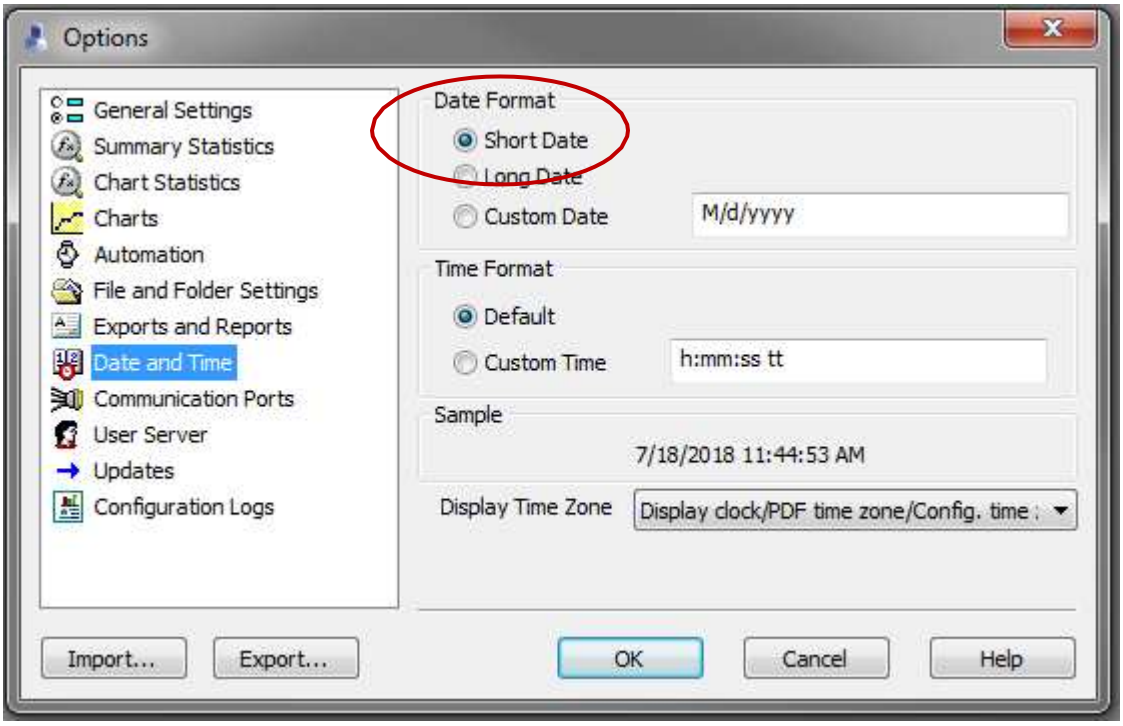
EXPORTS and REPORTS (cont.)

Click on the "Customize *.csv" button and the Properties window (shown below) will open. Make sure all the boxes are checked as shown.



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DATE and TIME



When you have finished matching all your settings to those shown here, be sure to click ***OK*** to save them

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Ordering and Receiving COVID-19 Vaccine in NMSIIS

Submitting a COVID-19 Vaccine Order in NMSIIS

All COVID-19 Vaccine orders will be submitted to the New Mexico Immunization Program via NMSIIS

If your facility is a Vaccines for Children (VFC) and/or Adult (317) provider that also orders other vaccines through NMSIIS, all orders for COVID-19 vaccines should be made as **separate transactions** from these orders.

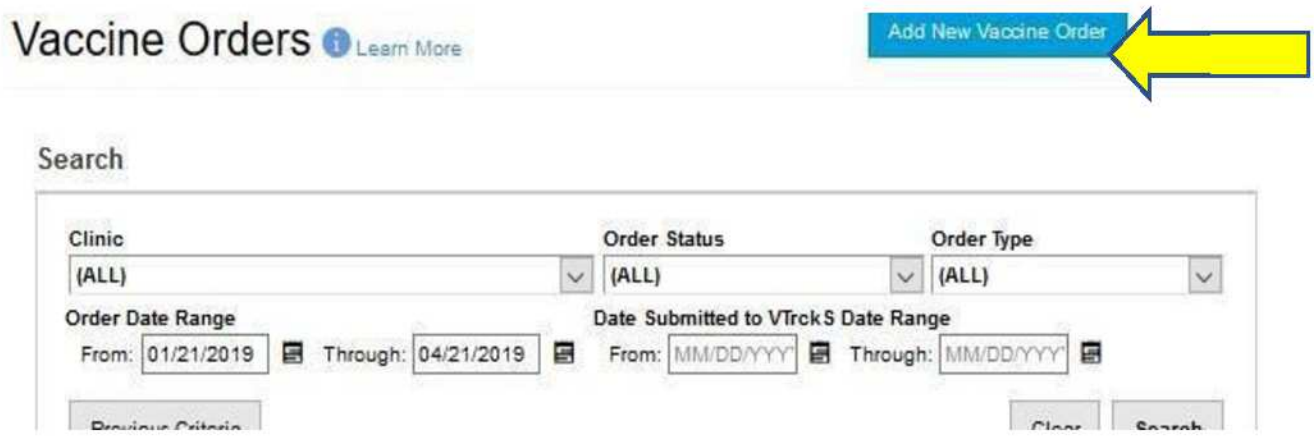
Ordering and Receiving COVID-19 Vaccine

Submitting a COVID-19 Vaccine Order in NMSIIS



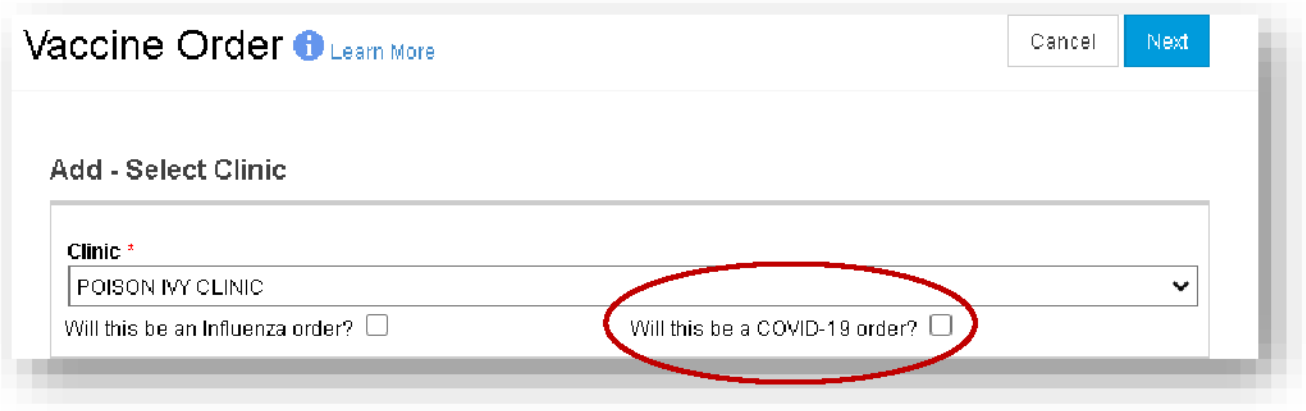
Step 1. In the blue panel to the left, navigate to the Inventory module and click the (+) sign to expand the menu. Then click the (+) sign next to "Vaccines" to expand that menu. Then select "Vaccine Orders."

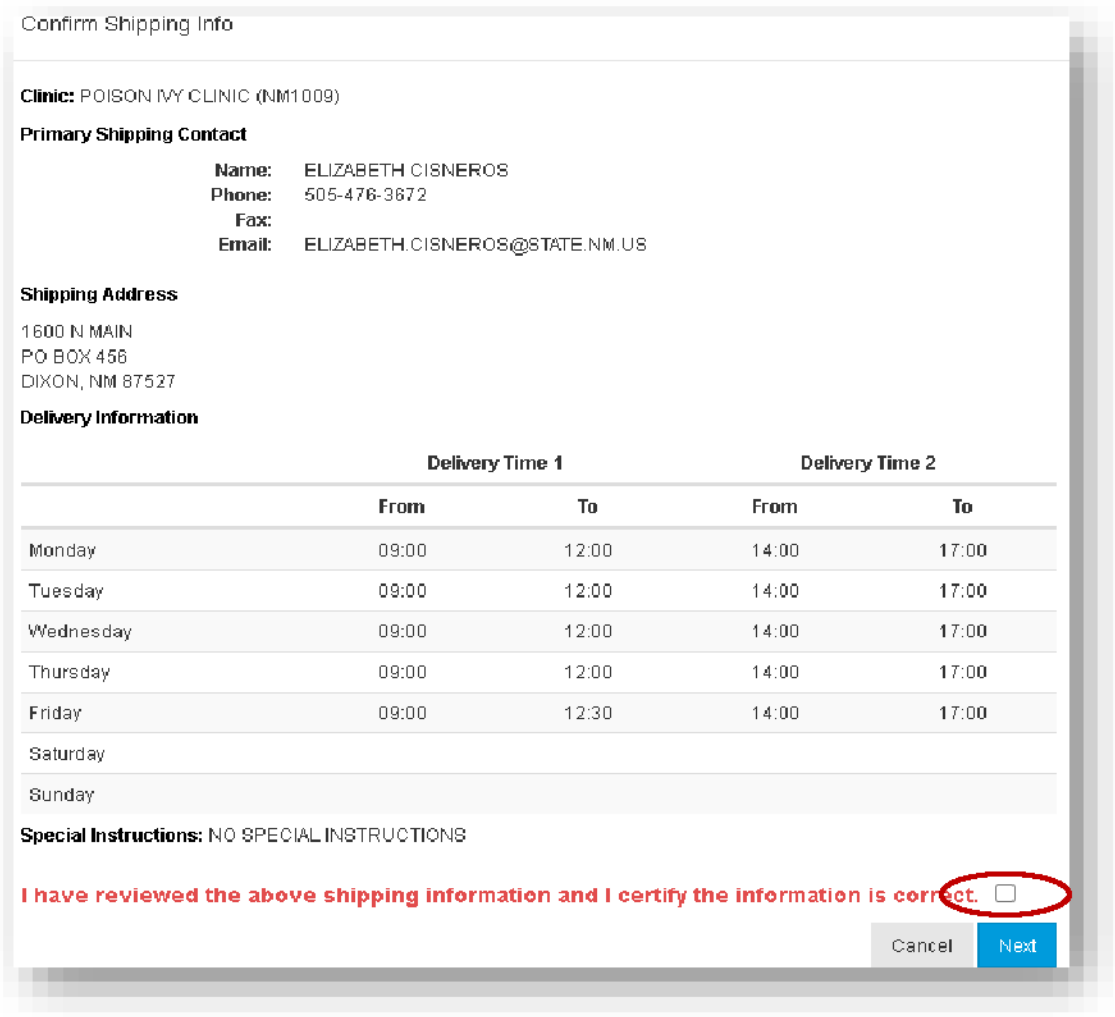
Step 2. In the upper right corner of the "Vaccine Orders" screen that displays, select "Add New Vaccine Order"



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Step 3. The Vaccine Order screen will display. When you initiate the order, it will give you the option to select if it is a COVID-19 order Select your clinic from the drop-down menu
After checking the COVID-19 order box and clicking the blue "next" button, you'll be asked to certify that the clinic and shipping information shown is correct.



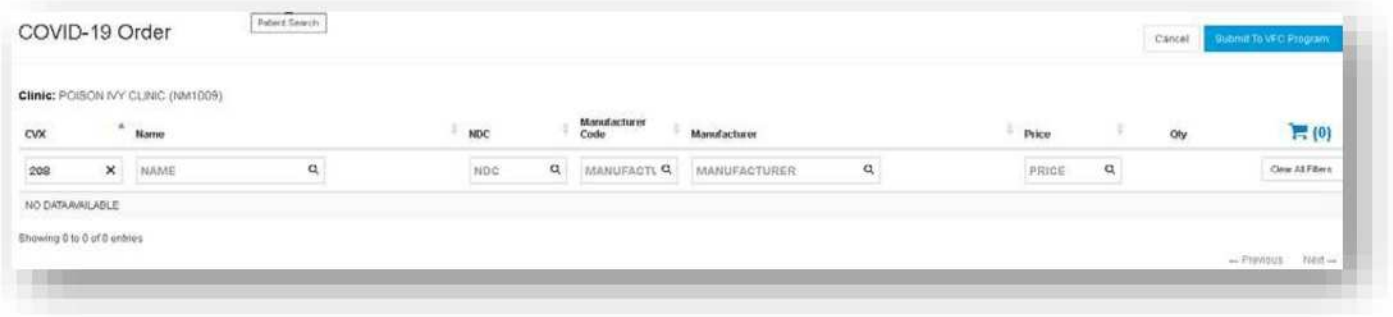


Step 4. Your clinic's shipping address, delivery hours, and shipping contact information will display. Once you have confirmed that the information is correct, check the box next to "I have reviewed the above shipping information and I certify the information is correct" and click **Next**. If any of the shipping information is incorrect, please update it with the correct information in NMSIIS ***before***

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placing your order.

Step 5. The COVID-19 Order screen view will now be displayed



This is what the order page will look like – Once complete, please review your order to ensure there are no errors; you may also add text in the "Clinic Comments" field

NOTE for vaccine being delivered from the DOH Depot: ***The vaccine Transport Team WILL make direct phone contact approximately 30 minutes before arrival.***

If you are placing an order for Pfizer vaccine you MUST enter the name and cell phone number of two staff who can be contacted by the Transport Team to coordinate the vaccine delivery and assist with the transfer of vaccine when it arrives

When processing your order for shipment or delivery, we will assume that the normal 48-72-hour turnaround time is preferred and expected. Please let us know if you have different timing needs with information in the comments and we will do our best to accommodate them.

After entering the vaccine order information, you'll submit to the program by clicking the blue button in the top right

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Receiving COVID-19 Vaccines into your On-Hand Inventory in NMSIIS

All COVID-19 Vaccine must be received into your inventory in NMSIIS to facilitate the administration, tracking, reporting, and reconciliation of each dose, as required by the CDC.

The receipt of vaccine into inventory is done in two different ways and depends on the type of vaccine being received.

- For guidance on the receipt of Ultra-low Temperature (ULT) COVID-19 vaccine, see Receiving a vaccine ***transfer*** in NMSIIS
- For guidance on the receipt of refrigerated or frozen COVID-19 vaccine, see Receiving a vaccine ***shipment*** in NMSIIS

Receiving a vaccine ***shipment*** in NMSIIS

1. In the blue panel at the left side of the NMSIIS home page, navigate to **Inventory** and select the (+) sign to expand your module view. Then click on the Vaccines plus sign to expand your view further and select **On-Hand**.
2. On the On-Hand inventory page that appears, click on the blue link with a yellow triangle stating, "There are # Pending VTrcks Shipments".
3. The Pending VTrcks Shipments will display. Click **Received** for each vaccine lot received.
4. A vaccine inventory screen will display with relevant fields pre-populated. Click **Create**.
5. The vaccine shipment will then be loaded in your inventory on the On-Hand screen.

Receiving a vaccine ***transfer*** in NMSIIS

Reminder: your site must have a completed COVID Redistribution Agreement to receive transferred vaccine

Follow these steps if another VFC location has transferred vaccine **to** your site:

1. Go to Inventory On-Hand, click on blue hyperlink



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2. Locate the vaccine and click on ***Received***



Please note: the transfer will not be complete until the **receiving** site follows the steps above

COVID-19 Vaccine Inventory Management and Reporting Requirements

Data Reporting Requirements to NMSIIS (New Mexico Statewide Immunization Information System)

Patient demographic and vaccine data is required to be reported to New Mexico's IIS (Immunization Information System, every 24 hours. Data can be reported in one of the following ways:

1. Manual data entry: Providers enter the patient and administered vaccine information directly into the IIS
2. Automated data exchange: Provider enters the patient and administered vaccine information into their Electronic Medical Record/Electronic Health Record and the data is then uploaded into the state's IIS.

For information on how to begin reporting to NMSIIS, please see our training and data exchange pages on the NMDOH website:

NMSIIS Training: https://www.nmhealth.org/about/phd/idb/imp/siis/train/
NMSIIS Data Exchange: https://www.nmhealth.org/about/phd/idb/imp/siis/dte/

For reporting COVID-19 Vaccine data to the IIS, please see the table below for a complete list of required data elements.

Required Vaccine Administration Data Elements

Vaccinating Facility and Health Care Provider Related
Administered at location/facility name/ID
Administered at location type
Administration address (Street - 2 lies, city, county, state, zip)
Sending organization
Vaccine administering provider suffix
VTrckS Provider PIN
Vaccine Related Data Elements
MVX (manufacturer)
CVX (product)
Lot number (UoU or UoS - UoU is preferred)
Vaccine expiration date
Vaccine NDC

Patient/Vaccine Recipient Related
Recipient name (First, Middle, Last)
Recipient date of birth
Recipient address (street, city, county, state, zip)
Recipient sex
Recipient race (patient identified/multiple options)
Recipient ethnicity
Vaccine administration site (on the body)
Vaccine route of administration
Recipient ID
Administration date
Vaccine series complete
Dose number

Optional Vaccine Administration Data Elements

Patient/Vaccine Recipient Related
Comorbidity status (Y/N)
Recipient missed vaccination appointment (Y/N)
Serology results
Vaccination Refusal (Y/N)

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Daily Reporting in VaccineFinder

The daily reporting of all inventory must be done in VaccineFinder
Additional information about VaccineFinder can be found in the Appendices

Within 24 hours of administering a dose of COVID-19 Vaccine and adjuvant (if applicable), Organization must record in the vaccine recipient's record and report required information to the relevant state, local, or territorial public health authority. Details of required information (collectively, Vaccine-Administration Data) for reporting can be found on CDC's website. Here are some important links:

- CDC COVID-19 Vaccination Provider Support, Data and Reporting: https://www.cdc.gov/vaccines/covid-19/vaccination-provider-support.html
- VaccineFinder COVID-19 Vaccine Provider Information website (includes video trainings): https://vaccinefinder.org/covid-provider-resources
    - Direct links to training videos:
        - Provider Setup and Inventory: https://vimeo.com/481324512
        - Jurisdiction Reporting Inventory: https://vimeo.com/481324268
- Onboarding emails will come from: vaccinefinder@auth.castlighthealth.com
- Technical support team: vaccinefinder@castlighthealth.com

Weekly Inventory Reconciliation

Organization must report the number of doses of COVID-19 Vaccine and adjuvants that were unused, spoiled, expired, or wasted as required by the relevant jurisdiction.

This is accomplished through a weekly reconciliation of your site's COVID-19 vaccine inventory in NMSIIS. The step-by-step instructions for completing a weekly reconciliation of your COVID-19 inventory follows.

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NEW MEXICO
DEPARTMENT OF
HEALTH

NEW MEXICO IMMUNIZATION INFORMATION SYSTEM (NMSIIS)

INVENTORY GUIDE
Reconciliation Process

AMERICAN LEGALNET, INC.
NM-OTERO-21-0275-A-000334

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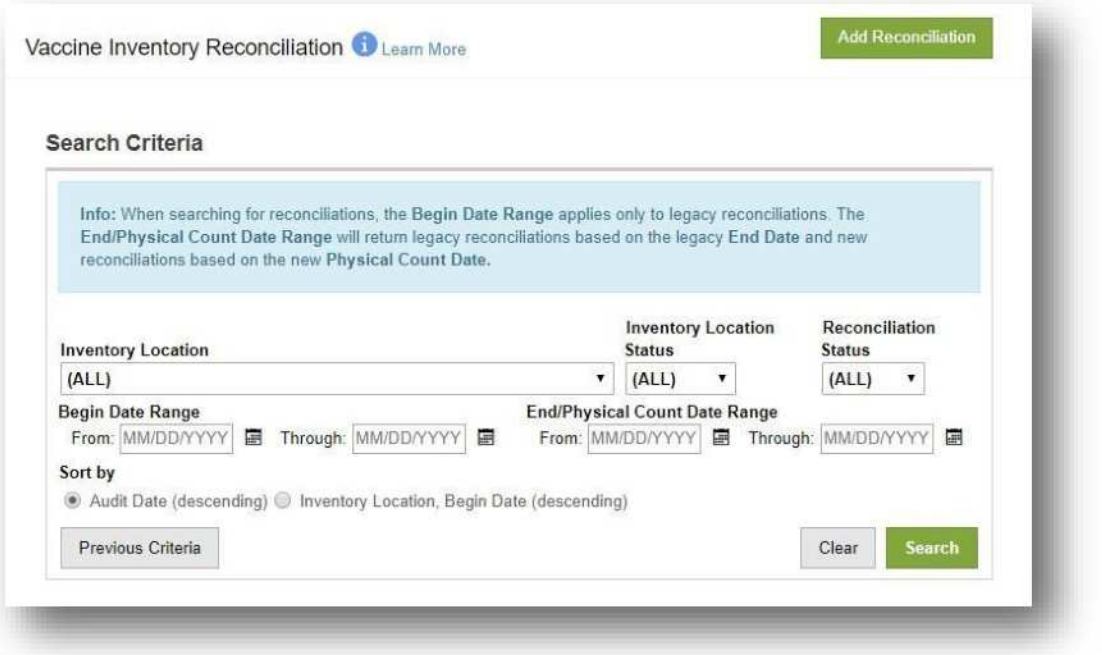
Overview

This document outlines the steps an end user must take to complete their reconciliations in NMSIIS.

Complete a Reconciliation

Reconciliation Search Page

- Navigate to the **Inventory Module**, select **Vaccines** and select **Reconciliation**.
- The *Vaccine Inventory Reconciliation Search Criteria* page will be displayed.
    - A blue info bar will be displayed above the Search Criteria with the following text:
        - Info: When searching for reconciliations, the **Begin Date Range** applies only to legacy reconciliations. The **End/Physical Count Date Range** will return legacy reconciliations based on the legacy **End Date** and new reconciliations based on the new **Physical Count Date**.

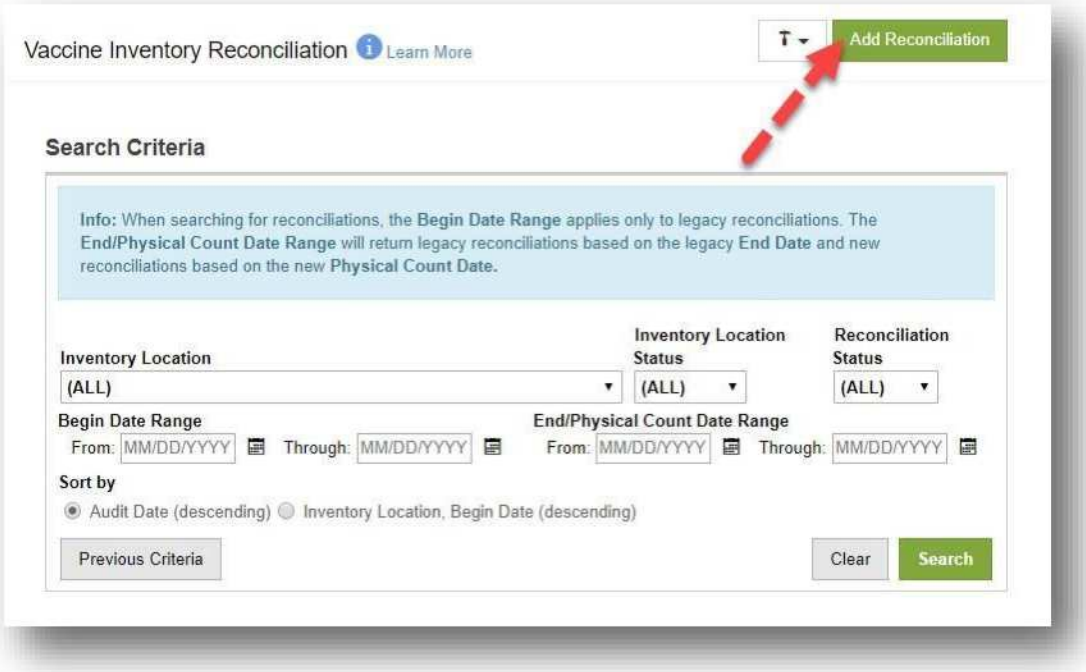


- Tip: To quickly view a list of all reconciliations, do not enter any **Date Range** criteria and select **Search.**

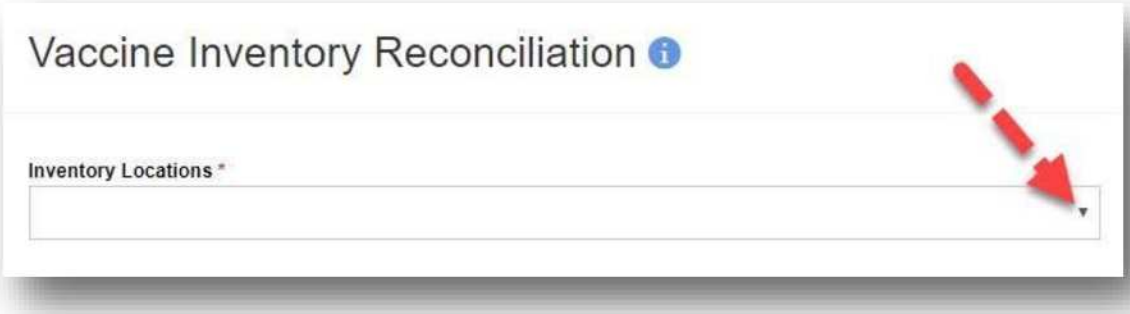
Reconciliation Create Page

- Navigate to the **Inventory Module**, select **Vaccines**, and select **Reconciliation**.
- The *Vaccine Inventory Reconciliation Search Criteria* page will be displayed.

- Select **Add Reconciliation**.



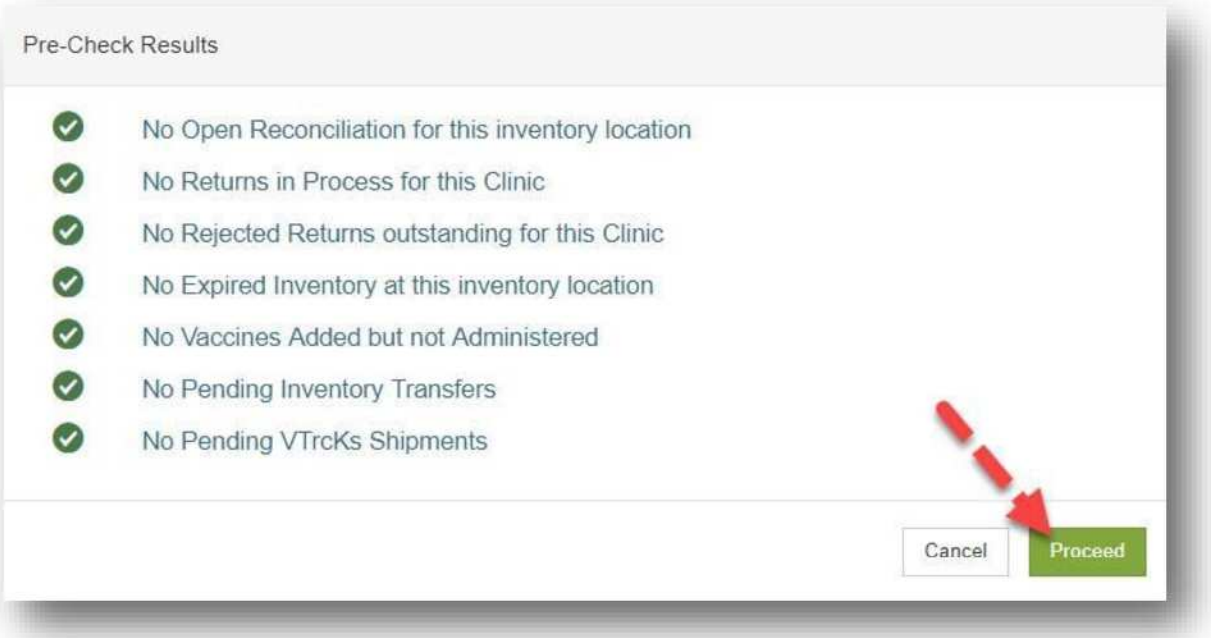
- The system will navigate to the *Vaccine Inventory Reconciliation* page to selectan Inventory Location.
- From the dropdown list, select the **Inventory Location** that will be reconciled.



- After selecting the **Inventory Location** that will be reconciled, the *Pre-Check Results* modal will appear.
- For the selected **Inventory Location**, the *Pre-Check Results* modal will display theresults from the following 7 pre-checks:
    - Open Reconciliations
    - Returns in Process
    - Outstanding Rejected Returns
    - Expired Inventory
    - Vaccines Added but not Administered

- Pending Inventory Transfers
- Pending VTrcKs Shipments

- Once all pre-checks pass (denoted by the green check mark icon), select **Proceed**.
  - Note: The option to select **Proceed** will not appear until all pre-checks have passed.



- Note: Pre-Check specifications are located in the Pre-Check Specifications section of this user guide.
- After selecting **Proceed**, the system will navigate to the next page, requiring entry of the following fields:
  - Description
    - Enter a description that best describes the reconciliation.
  - Authorized By
    - From the drop-down list, Select the name of the user that is completing the reconciliation.
    - Selecting the user icon next to the field will insert the currently logged in user's name.
  - Count Date
    - Enter the date that the count occurred.
    - The date cannot be a future date.
    - The date must be after the previous reconciliation count date.
  - Count Time
    - Input the time that the count occurred.
    - This cannot be a future time.

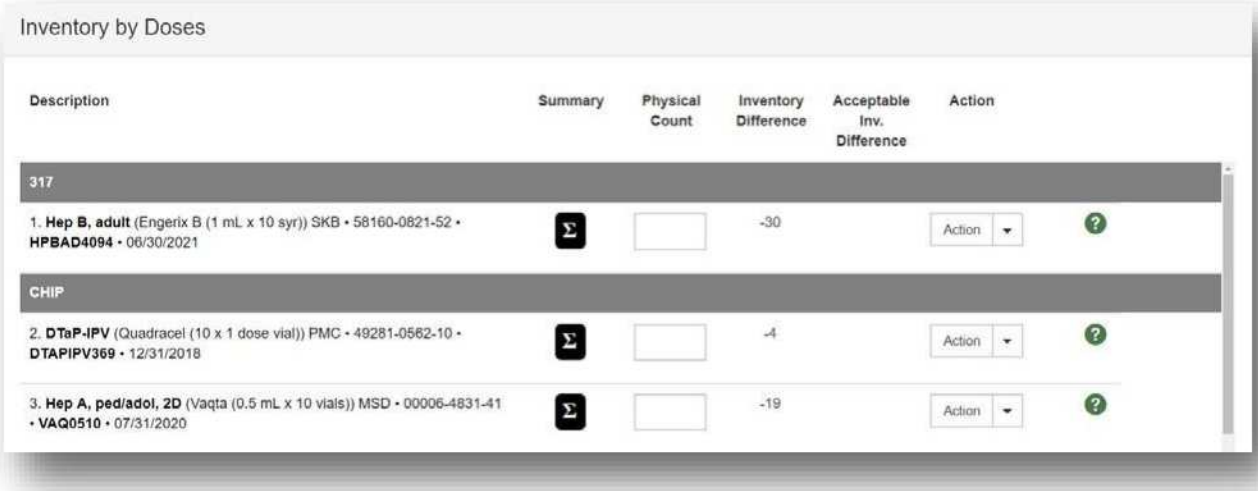
- After the required data has been entered, select **Create**, located in the upper right corner of the *Vaccine Inventory Reconciliation* page.



- After selecting **Create**, the *Inventory Reconciliation* will be created with a *Status* of OPEN.

Inventory by Doses Reconciliation Count

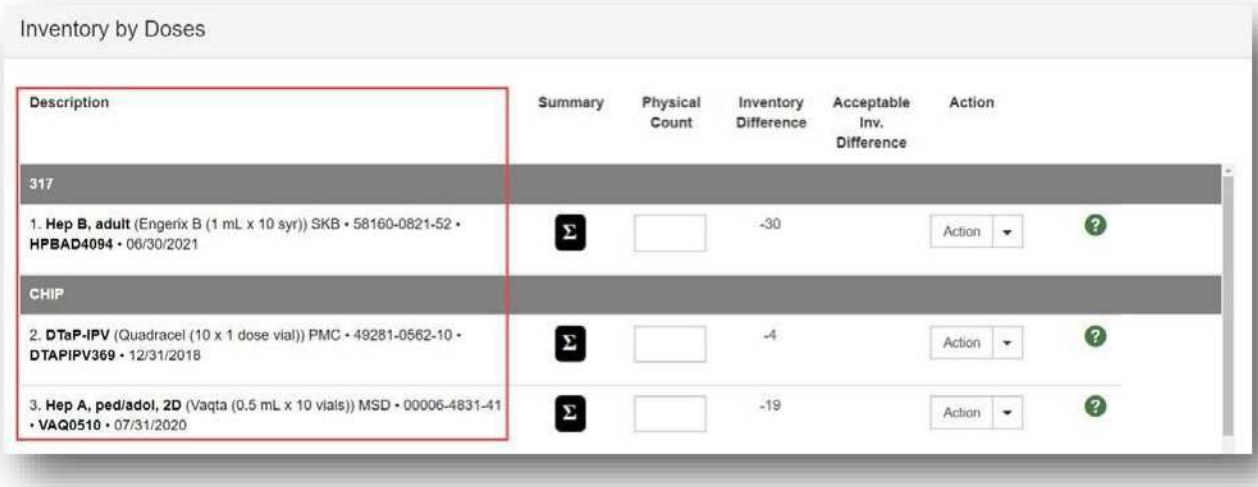
- Now that the inventory reconciliation has been created, the system will expand the *Vaccine Inventory Reconciliation* page to show the *Inventory by Doses* section of the page.



Description

- Each inventory item for the specified **Count Date** and **Time** period will be displayed with the following:
  - Assigned row number

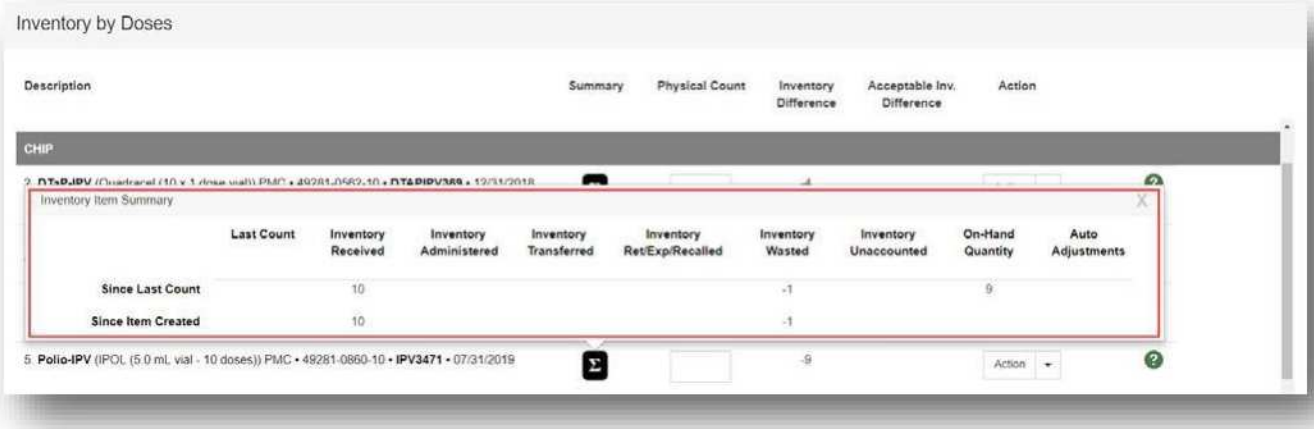
- Vaccine (Brand)
- Manufacturer
- NDC
- Lot Number
- Expiration Date



- Note: Gray sub header bars will separate listed inventory items by **Funding Source**.

Summary

- A summary icon (denoted by the black capital Greek sigma icon Σ) will display for each inventory item.

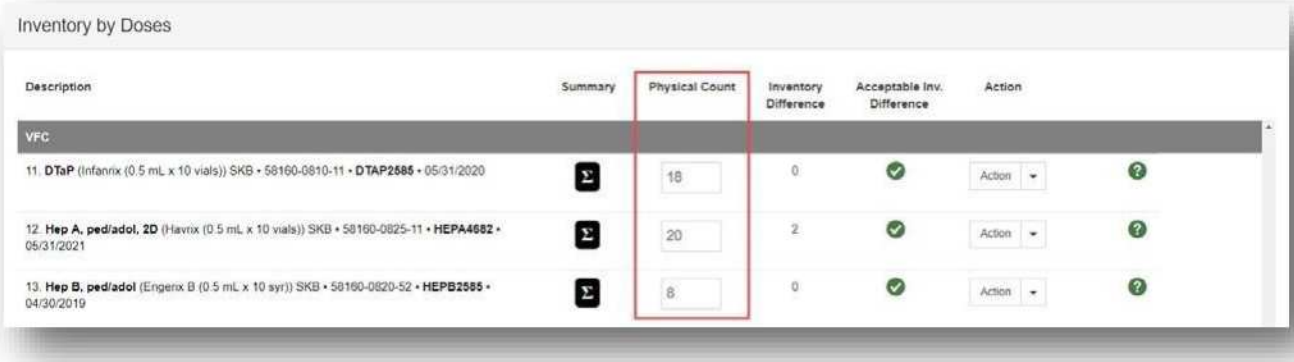


- Hover over the summary icon to reveal the *Inventory Item Summary* pop-upthat contains the following:
  - Last Count
  - Inventory Received

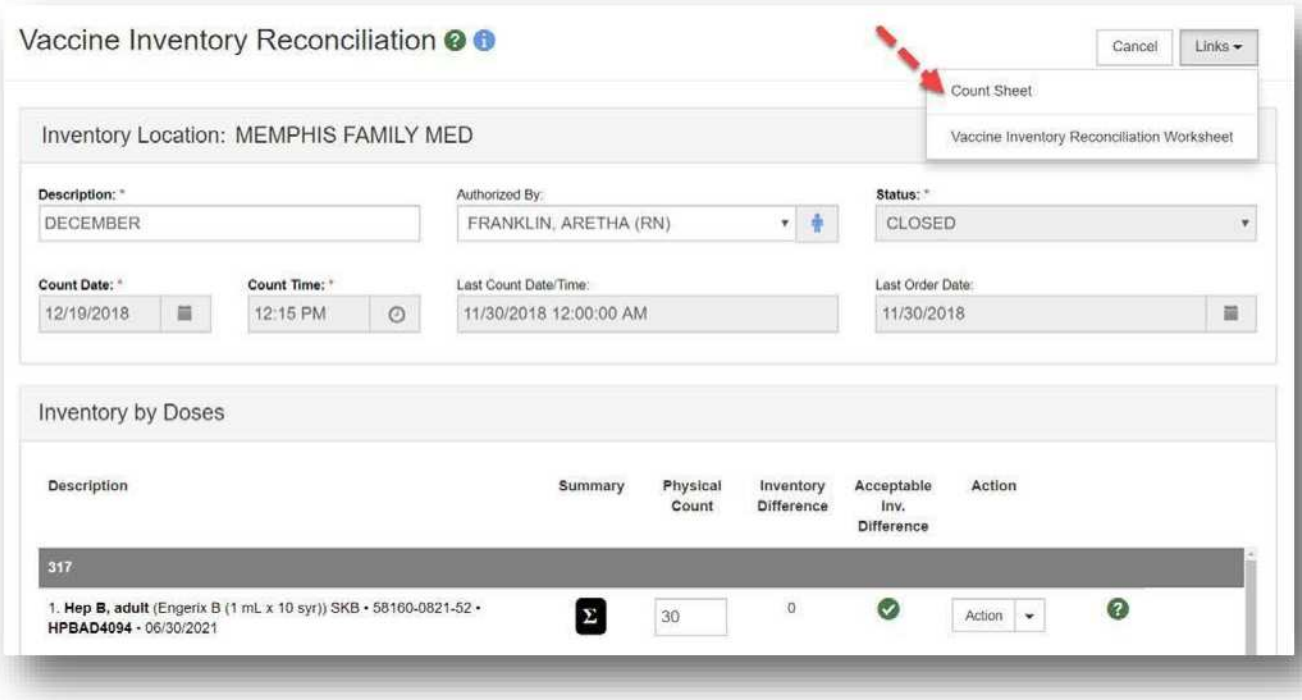
- Inventory Administered
- Inventory Transferred
- Inventory Returned, Expired, and/or Recalled
- Inventory Wasted
- Inventory Unaccounted For
- On-hand Quantity
- Auto Adjustments

Physical Count

- Input the number of physical doses counted for each inventory item listed in the open *Vaccine Inventory Location.*



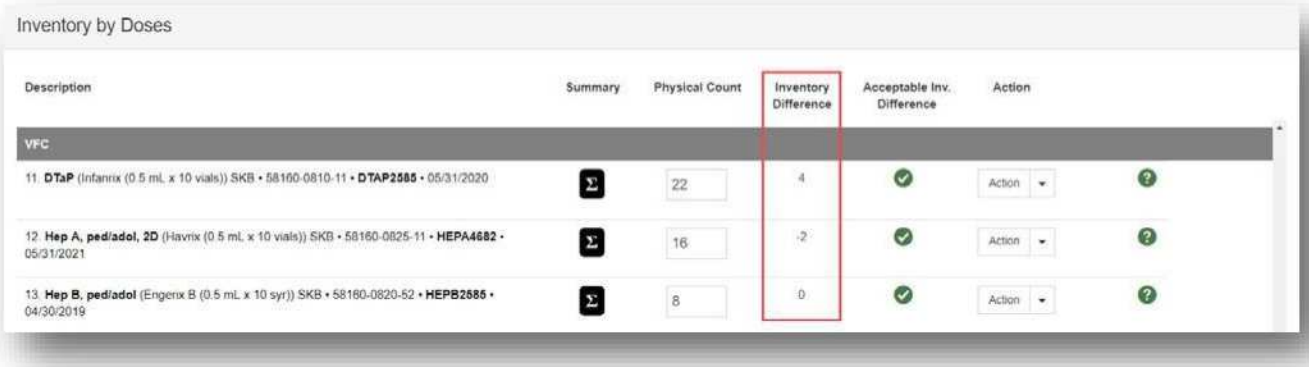
- The *Physical Count* cannot be a negative number; it must be a zero or a positive number.
- To assist with the *Physical Count*, the **Count Sheet** report is available.
  - Select the **Links** button located in the upper right corner of the *Vaccine Inventory Reconciliation* page.



- From the dropdown menu, select **Count Sheet**.
- The **Count Sheet** report will open in a pop-up window as a PDF.
- Print the **Count Sheet** and take it to the storage unit to documentthe physical counts.
- Input the documented physical counts in the *Physical Count* column ofthe reconciliation.

Inventory Difference

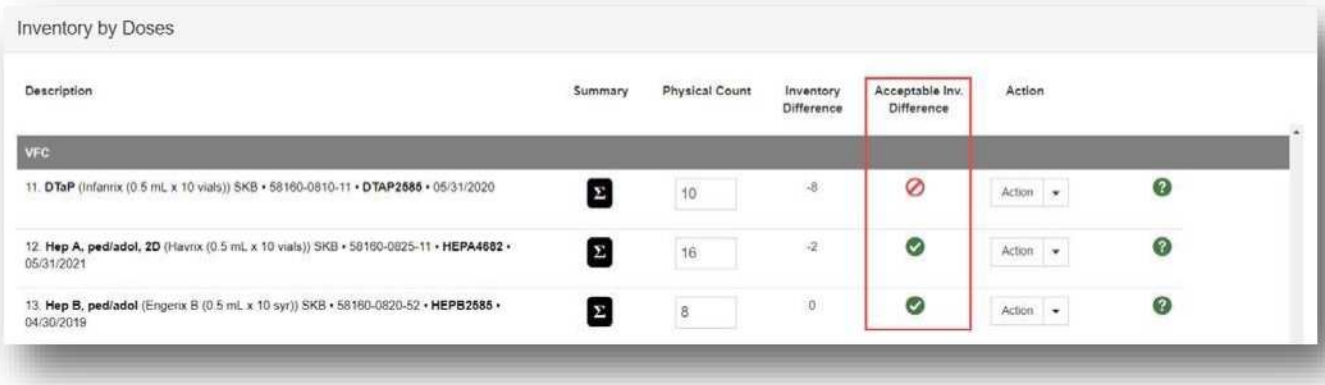
- Once a *Physical Count* has been entered and the **Update** button has been selected, the *Inventory Difference* (a read-only field) will calculate the difference between the number of starting on-hand doses, all transactions from the *Summary*, and the currently entered *Physical Count*.



- The *Inventory Difference* can be a negative or positive number.

Acceptable Inventory Difference

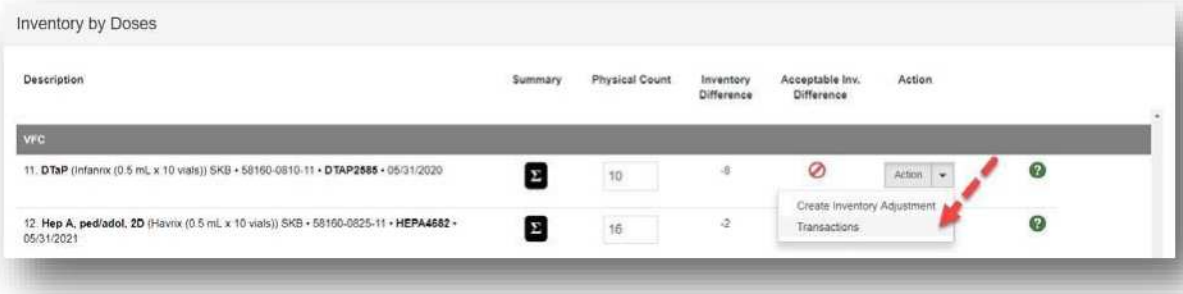
- If the *Inventory Difference* is under the allowable threshold set by the local jurisdiction, a green check mark icon will appear ( ), meaning the *Acceptable Inventory Difference* has been met.
- If the *Inventory Difference* is over the allowable threshold set by the local jurisdiction, a red stop icon will appear ( ), meaning the *Acceptable Inventory Difference* has not been met.



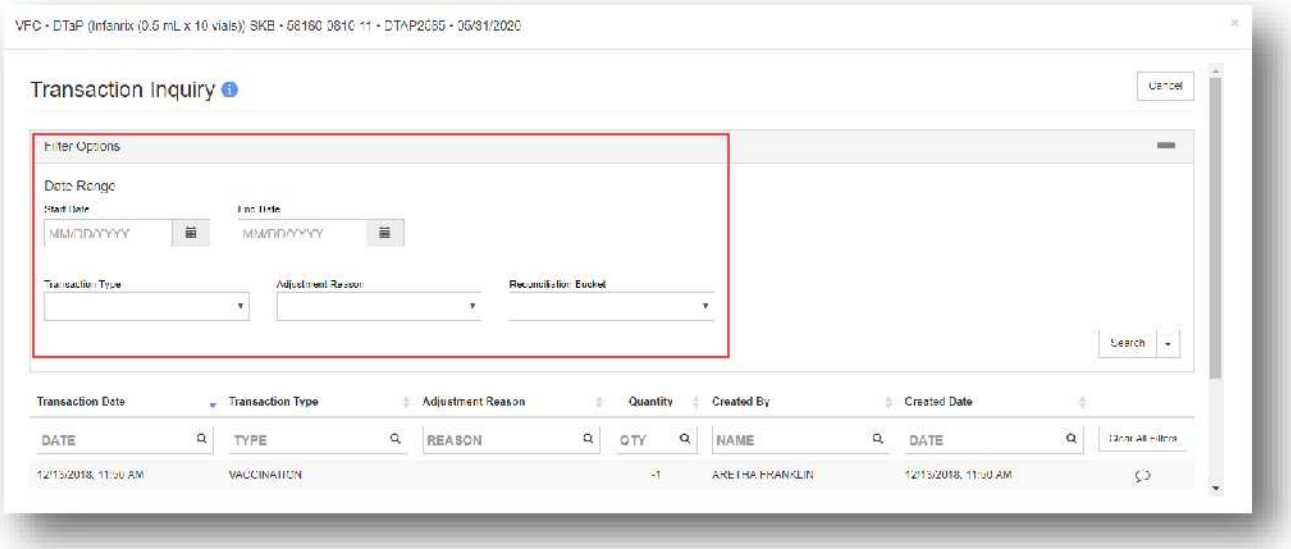
  - The *Acceptable Inventory Difference* has to be met prior to finalizing and closing the reconciliation. NMSIIS will not allow the reconciliation to be finalized and closed with an Inventory Difference on any lines.

To find the source of the Inventory Difference, review all transactions for the line in question:

- Select **Action** to complete the following task:
  - **Transactions** – To review the complete history of all transactions for the selected inventory item.
    - Select **Transactions**.

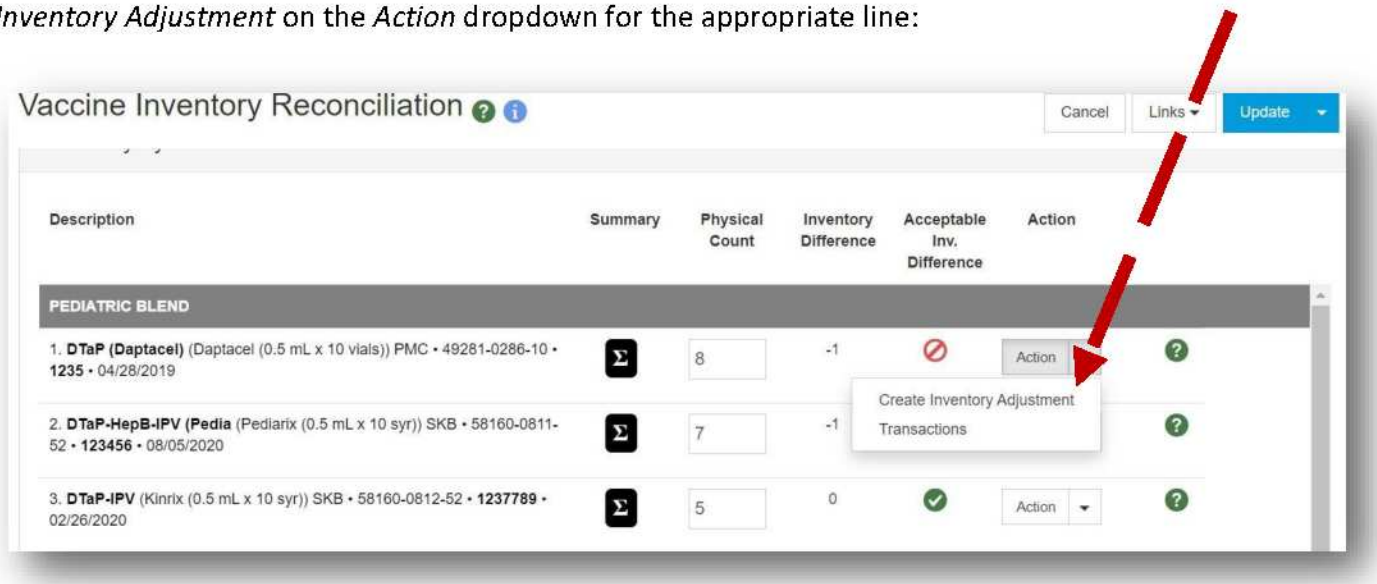


- A *Transaction Inquiry* modal will appear

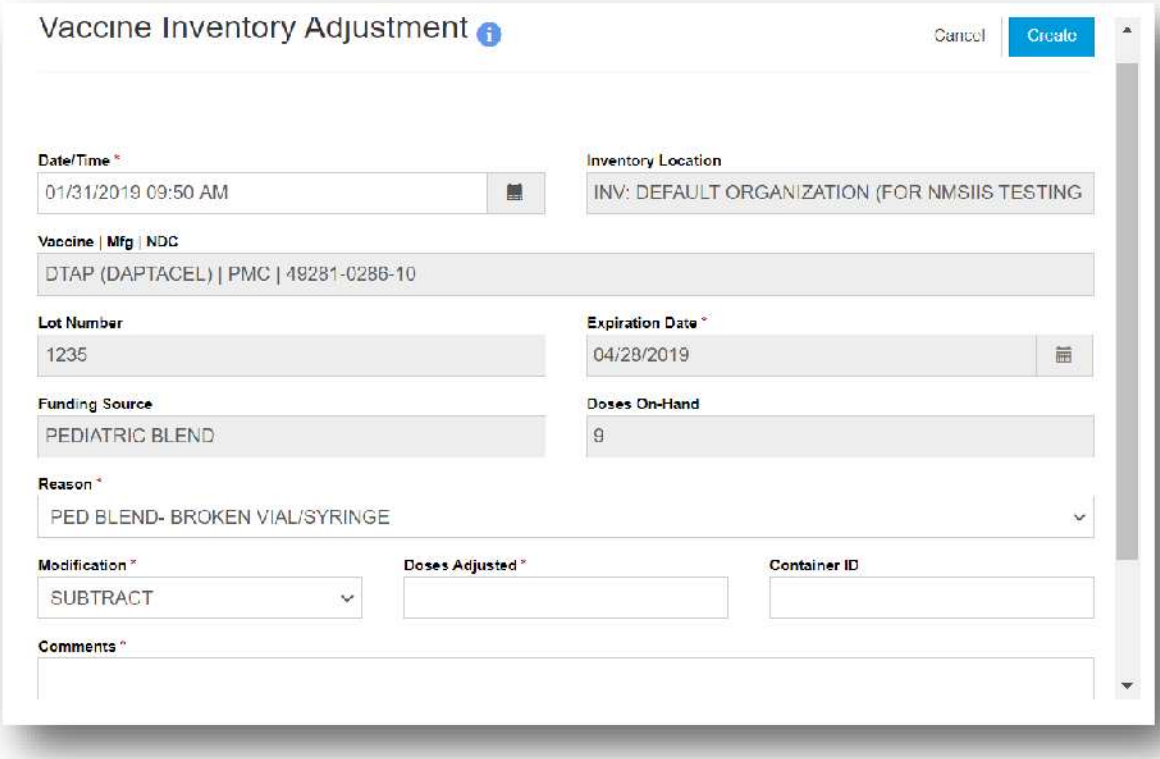


- The following filter options can be used to search, sort, and manage the transactions for the selected inventory item.
  - Start Date
  - End Date
  - Transaction Type
  - Adjustment Reason
  - Reconciliation Bucket
- **Transactions** can be used to determine and reconcile inaccuracies for the selected inventory item.

If it is found that the inventory difference is being caused by wastage that has not been entered, this can be entered without navigating away from the Vaccine Inventory Reconciliation screen. Select *Create Inventory Adjustment* on the *Action* dropdown for the appropriate line:



The Vaccine Inventory Adjustment screen will open:

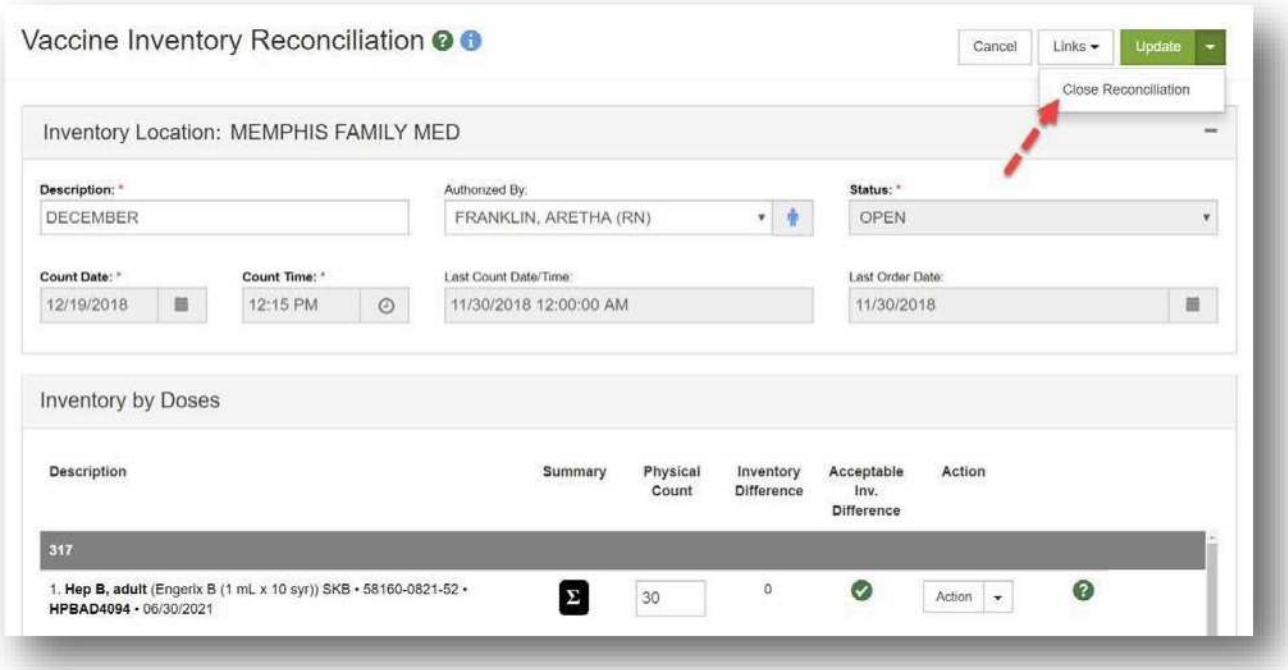


Here you will follow the guidance for correctly entering vaccine wastage found in the COVID Vaccine Provider Guide – see page 10

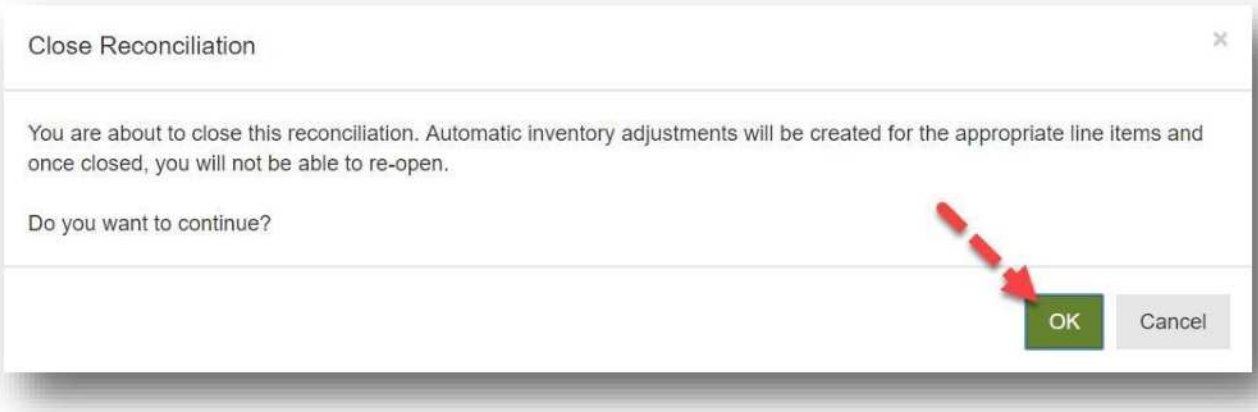
Close the Reconciliation

Please Note: Once a Reconciliation has been closed it cannot be re-opened.

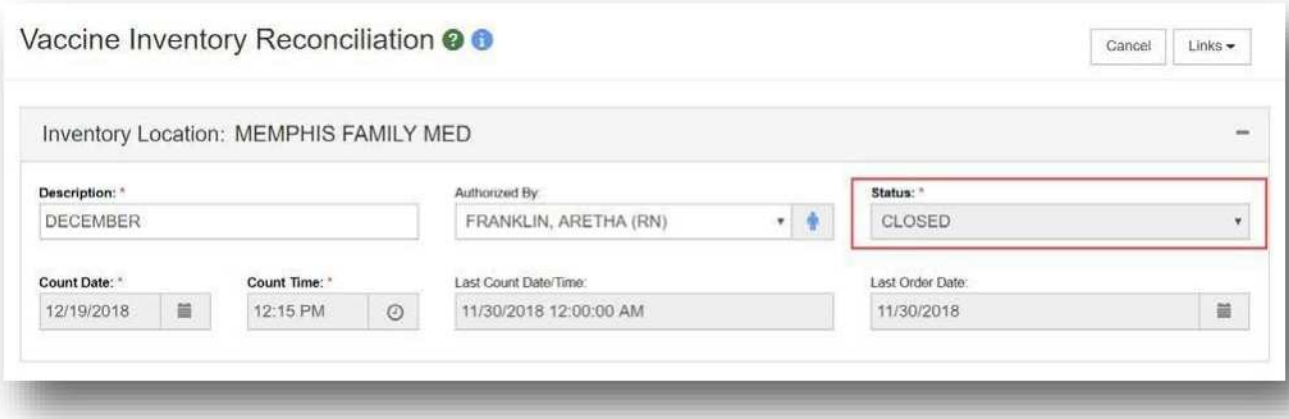
- Once all the inventory items have been accounted for andthere is are no remining inventory differences, the reconciliation is ready to be closed.
- To close the reconciliation, click the down arrow of the split action **Update** button in the upper right corner of the screen. Because Reconciliations cannot be re-opened to make corrections. Please ensure there are no unresolved inventory issues or questions and that the inventory physical count matches the exact quantities in the on-hand inventory before proceeding.
- If there are unresolvable issues or you are unsure that the Reconciliation is ready to be closed, Do Not proceed and contact the Immunization Help Desk. There is no negative impact to leaving a Reconciliation open while seeking issue resolution through help desk.



- Select **Close Reconciliation**.
  - The **Close Reconciliation** modal will appear with a confirmation message.
  - To go back and not proceed with closing the reconciliation, select **Cancel**.
  - To continue, select **OK**.



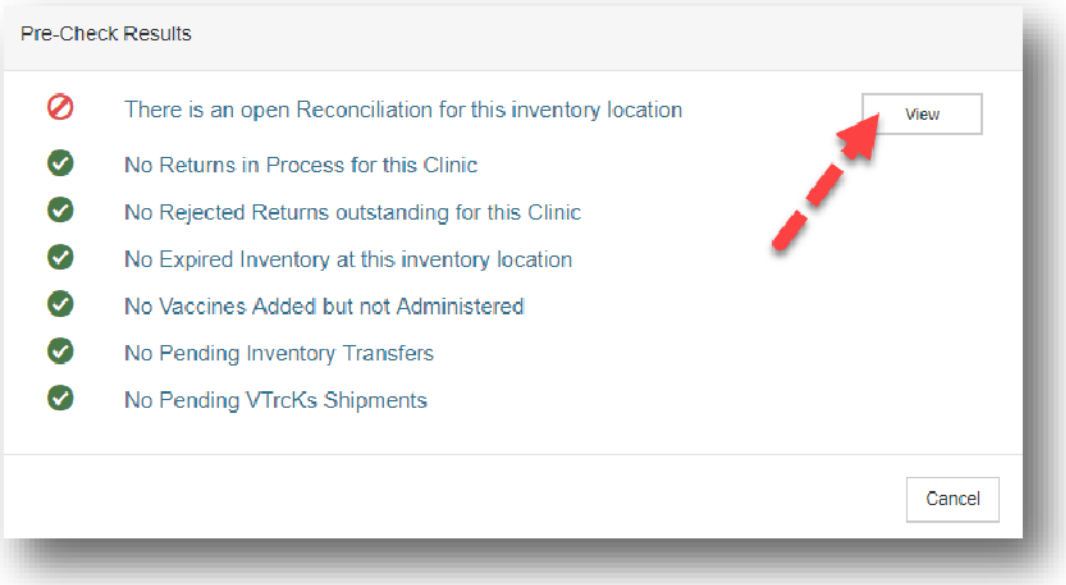
- After selecting **OK**, the system will return to the *Vaccine InventoryReconciliation* page and it will be noted that the **Status** of the reconciliation is **Closed**.



Pre-Check Specifications

Open Reconciliations

- If the selected **Inventory Location** does have an open reconciliation, a red stop icon (⊘) will display along with a **View** button.
  - Select the **View** button to navigate to the open reconciliation.

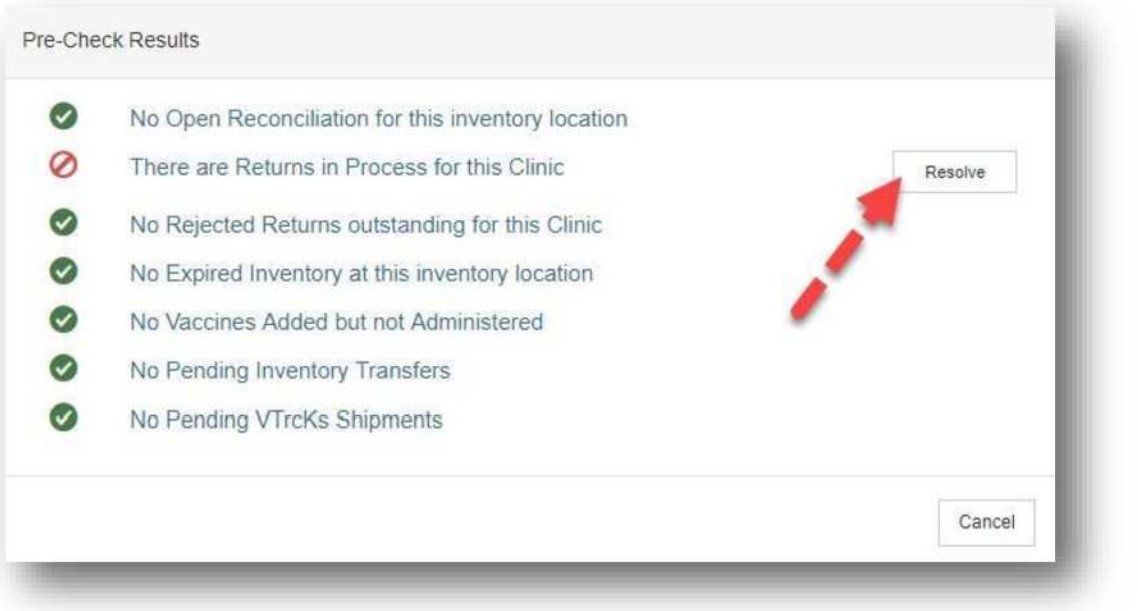


- All previously open reconciliations have to be updated and closed before proceeding with the creation of the new reconciliation.
- Selecting **Cancel** on the *Pre-Check Results* modal will navigate back to the *Vaccine Inventory Reconciliation* page.

- If the selected **Inventory Location** does not have an open reconciliation, a green check mark icon (✔) will display.

Returns in Process

- If the selected **Inventory Location** does have a return with a status of ***In Work***, a red stop icon (⊘) will display along with a **Resolve** button.
  - Select the **Resolve** button to navigate to the *Vaccine Returns* page.

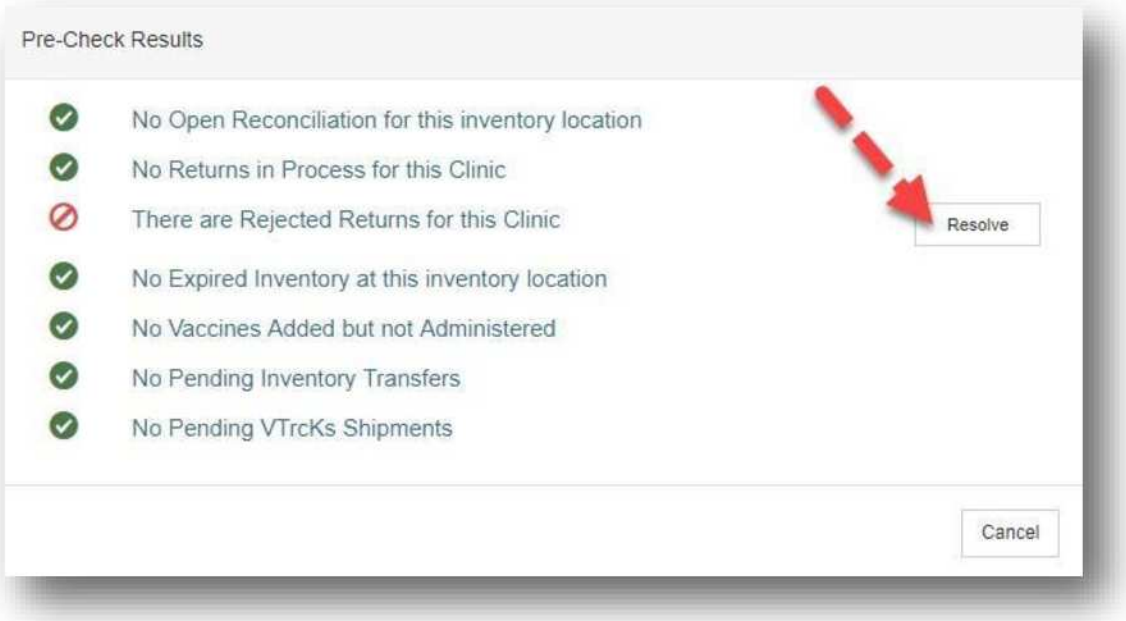


- All returns must be submitted before proceeding with the creation of the new reconciliation.
- Selecting **Cancel** on the *Pre-Check Results* modal will navigate back to the *Vaccine Inventory Reconciliation* page.

- If the selected **Inventory Location** does not have a return with a status of **In Work** or **Submitted for Approval**, a green check mark icon (✔) will display.

Outstanding Rejected Returns

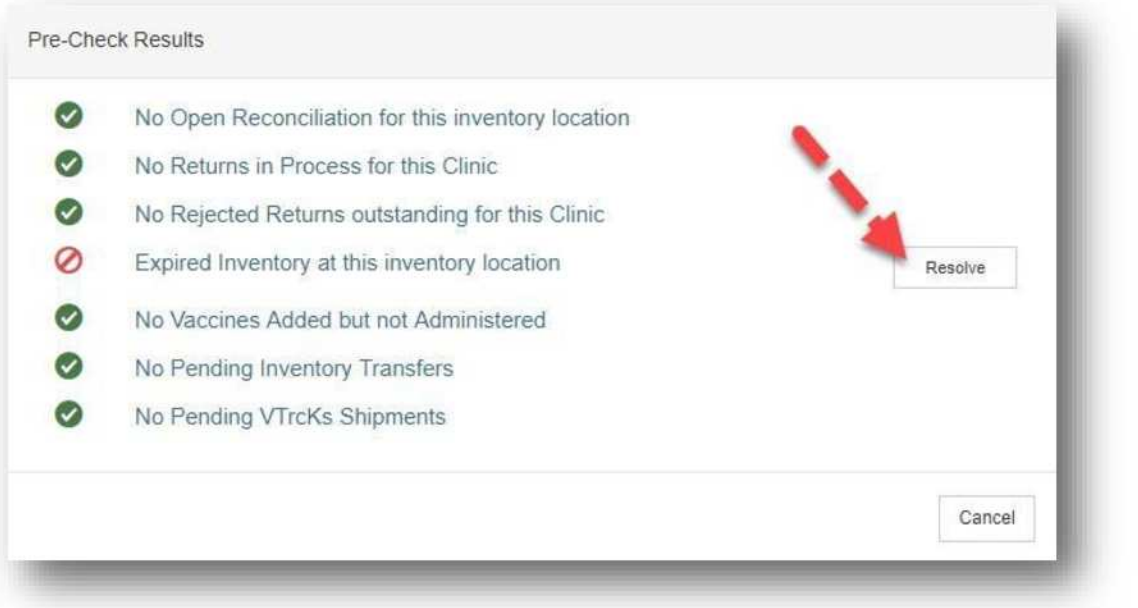
- If the selected **Inventory Location** does have a return with a status of **Rejected**, a red stop icon (⊘) will display along with a **Resolve** button.
    - Select the **Resolve** button to navigate to the *Vaccine Returns* page.



    - All rejected returns must be deleted before proceeding with the creation of the new reconciliation.
    - All IN-WORK returns must be either submitted to the Vaccines for Children Program or deleted prior to creating a new Reconciliation.
    - Selecting **Cancel** on the *Pre-Check Results* modal will navigate back to the *Vaccine Inventory Reconciliation* page.
- If the selected **Inventory Location** does not have a return with a status of **In-Work Rejected**, a green check mark icon (✓) will display.

Expired Inventory

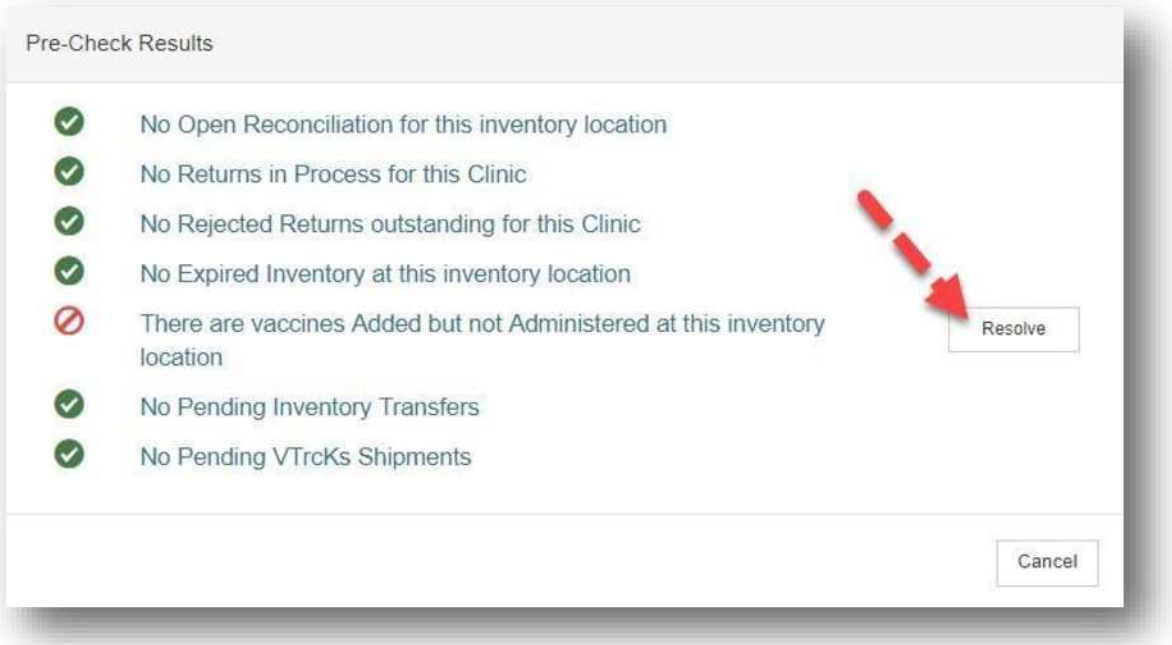
- If the selected **Inventory Location** does have inventory on hand with an expiration date prior to the current day's date, a red stop icon (⊘) will display along with a **Resolve** button.
- The expired inventory must be identified in the On-Hand Inventory screen – remember to change the Status drop-down to "Depleted/Expired" to display expired vaccines – before proceeding; when you have identified the expired vaccine
    - Select the **Resolve** button to navigate to the *Vaccine Returns* page.



    - Here you can create a return for the identified expired doses; all inventory with an expiration date prior to the current day's date must be resolved before proceeding with the creation of the new reconciliation.
    - Selecting **Cancel** on the *Pre-Check Results* modal will navigate back to the *Vaccine Inventory Reconciliation* page.
- If the selected **Inventory Location** does not have inventory on hand with an expiration date prior to the current day's date, a green check mark icon (✔) will display.

Vaccine Added but not Administered

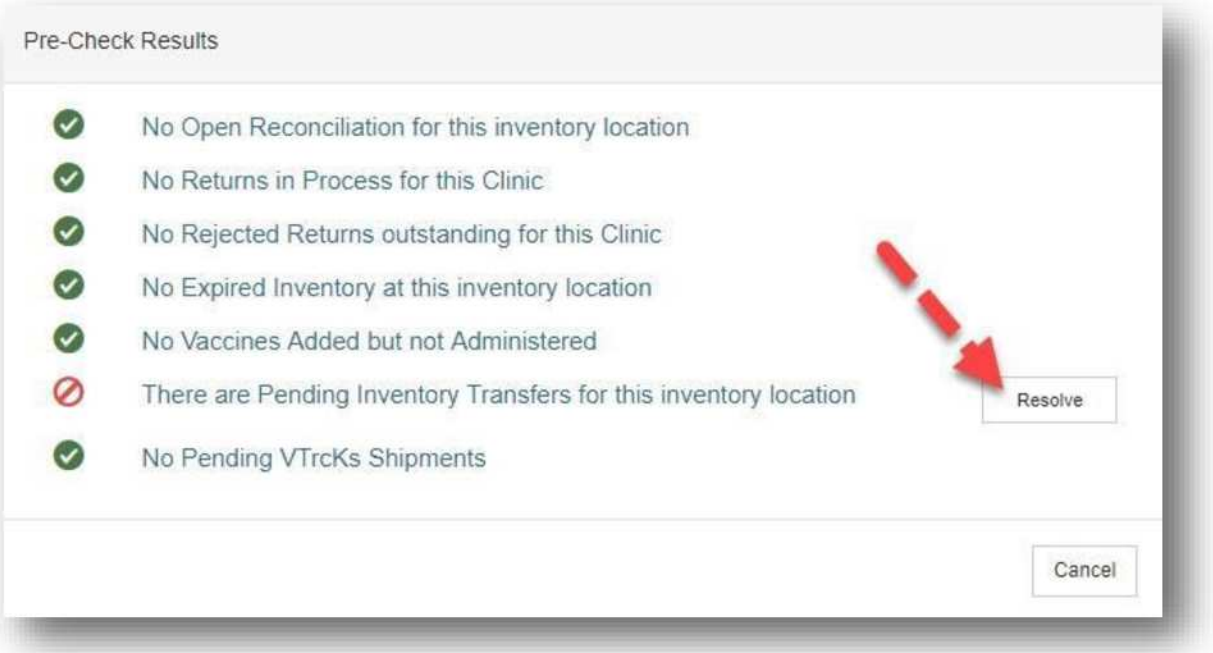
- If the selected **Inventory Location** does have vaccinations that have been added but not administered, a red stop icon (⊘) will display along with a **Resolve** button.
    - Select the **Resolve** button to navigate to the *Vaccines Added but not Administered* report page.



    - All vaccines must be administered or deleted before proceeding with the creation of the new reconciliation.
    - Selecting **Cancel** on the *Pre-Check Results* modal will navigate back to the *Vaccine Inventory Reconciliation* page.
- If the selected **Inventory Location** does not have vaccinations that have been added but not administered, a green check mark icon (✓) will display.

Pending Inventory Transfers

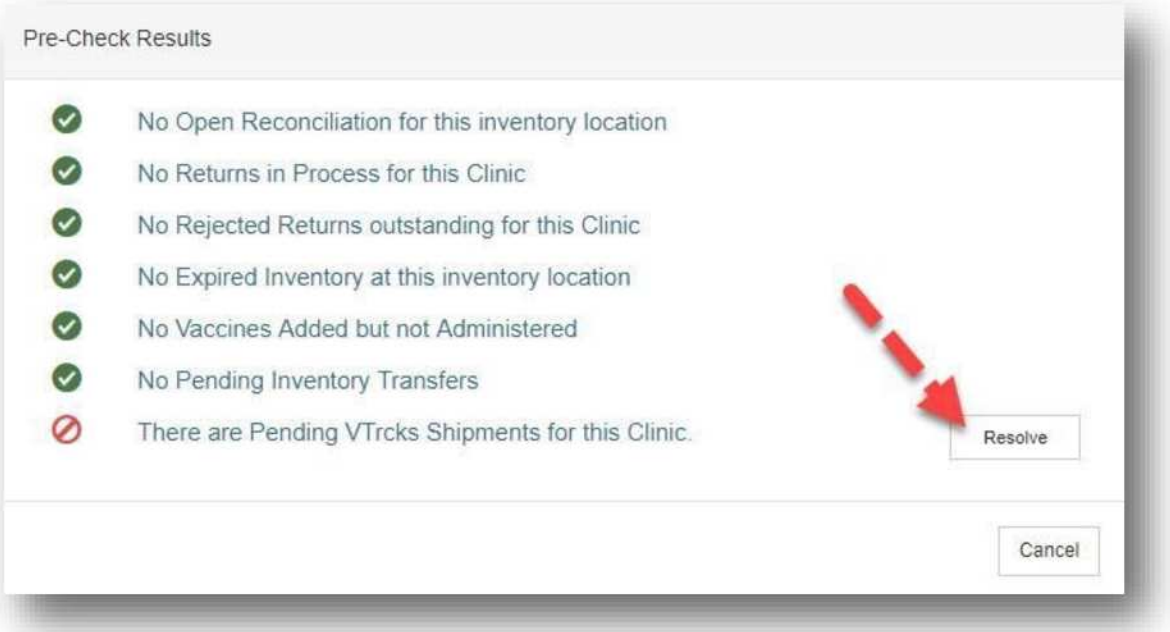
- If the selected **Inventory Location** does have pending incoming inventory transfers, a red stop icon (⊘) will display along with a **Resolve** button.
    - Select the **Resolve** button to navigate to the *Vaccine Inventory Transfer* page.



    - All incoming pending inventory transfers must be accepted before proceeding with the creation of the new reconciliation.
    - Selecting **Cancel** on the *Pre-Check Results* modal will navigate back to the *Vaccine Inventory Reconciliation* page.
- If the selected **Inventory Location** does not have pending incoming inventory transfers, a green check mark icon (✓) will display.

Pending VTrckS Shipments

- If the selected **Inventory Location** does have pending VTrckS shipments, a red stop icon (⊘) will display along with a **Resolve** button.
    - Select the **Resolve** button to navigate to the *Pending VTrckS* page.



    - All pending VTrckS shipments must be received or dismissed before proceeding with the creation of the new reconciliation.
    - Selecting **Cancel** on the *Pre-Check Results* modal will navigate back to the *Vaccine Inventory Reconciliation* page.
- If the selected **Inventory Location** does not have pending VTrcKs shipments, a green check mark icon (✔) will display.

Expired, ***Spoiled,*** or ***Wasted*** Vaccines

Expired Vaccines

As a general rule, the criteria for expired vaccine is the dose or doses are in the original vial, syringe, or other delivery device and beyond the expiration date on the package; this includes modified expiration date e.g., ultra-low temp vaccine transferred to refrigerated storage

It is expected that all COVID-19 Vaccine Providers will enter these returns ***weekly*** prior to starting their weekly COVID-19 vaccine reconciliation.

If your facility is a Vaccines for Children (VFC) or Adult Vaccine provider that also orders and returns pediatric and/or adult vaccines through NMSIIS, all returns for COVID-19 vaccines should be made in **separate transactions** from all other vaccine returns.

Spoiled Vaccines

As a general rule, the criteria for spoiled vaccine is the dose or doses are in the original vial, syringe, or other delivery device and have been exposed to conditions that compromised the viability of the vaccine (as determined by the vaccine manufacturer)

If have vaccine that may have been spoiled (e.g., due to a temperature excursion) you must submit a Troubleshooting Report (TSR) and contact the Vaccine Manufacturer for their determination of the vaccine's viability. You will follow the same return process you would for expired vaccine – including entering the appropriate *Return Reason* - for any doses that are deemed non-viable after the incident has been reviewed by the Vaccine Manufacturer and the Immunization Program has sent you a response to your completed TSR.

Wasted Vaccine

As a general rule, the criteria for wasted vaccine is the dose or doses are no longer in the original vial, syringe, or other delivery device and have been exposed to conditions that compromised the viability of the vaccine, e.g., drawn up but not administered, broken vial, etc.

If you are making an adjustment to your inventory for wastage, that process is different than the return process; please be sure to follow those instructions.

It is expected that all COVID-19 Vaccine Providers will keep an up-to-date vaccine wastage log and enter these inventory adjustments ***daily***.

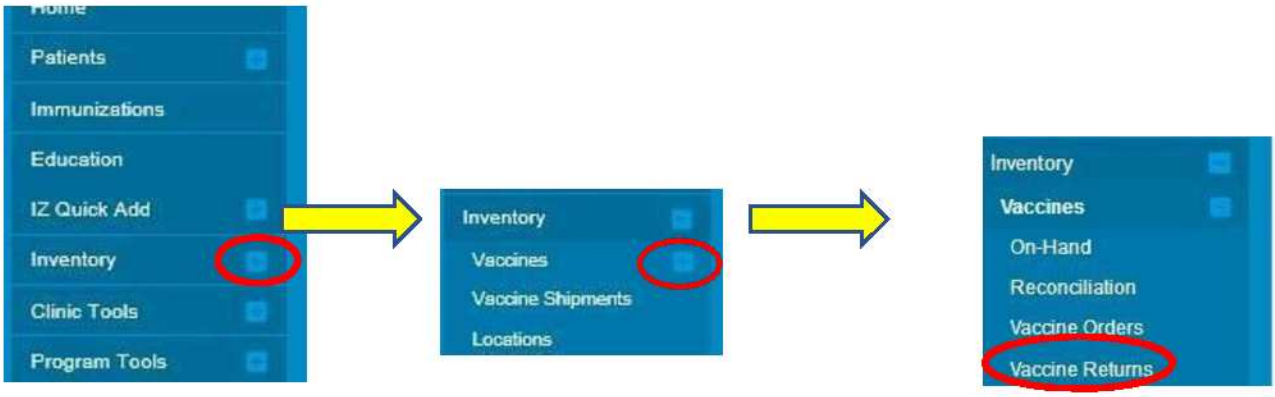
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Handling ***Expired***, ***Spoiled,*** or ***Wasted*** Vaccines in NMSIIS

Expired Vaccines

If your facility is a Vaccines for Children (VFC) or Adult Vaccine provider that also orders and returns pediatric and/or adult vaccines through NMSIIS, all returns for COVID-19 vaccines should be made in **separate transactions** from all other vaccine returns.

Step 1. In the blue panel to the left, navigate to the Inventory module and click the (+) sign to expand the menu. Then click the (+) sign next to "Vaccines" to expand that menu, then select "Vaccine Returns."



Step 2. In the upper right corner of the "Vaccine Returns" screen that displays, select "Add New Vaccine Return."



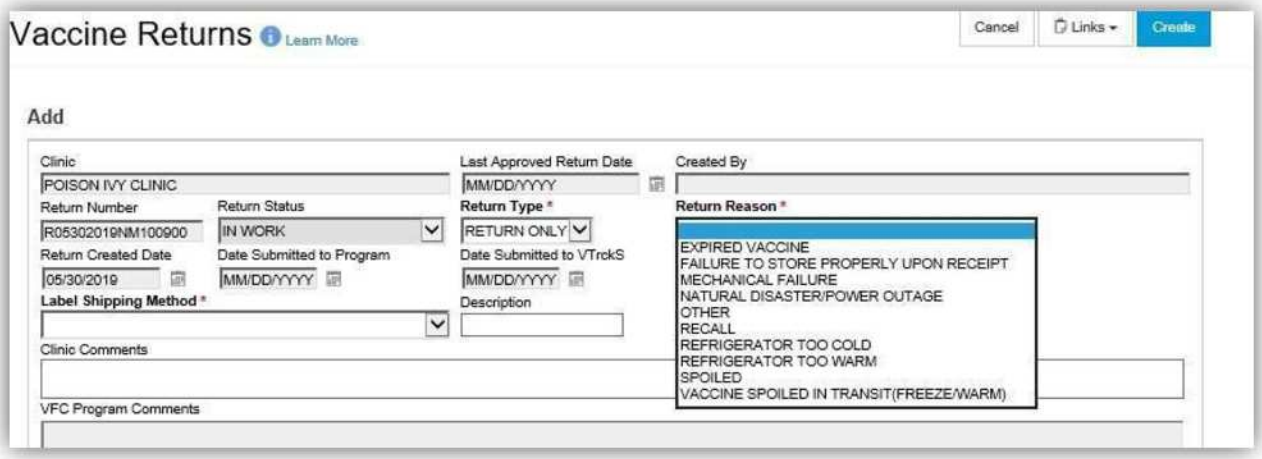
Step 3. Select the COVID-19 location for the clinic that is submitting the return and click **Next.**

Step 4. Once you have confirmed that the clinic information is correct, check the box next to "I have reviewed the above shipping information and I certify the information is correct" and click **Next**.

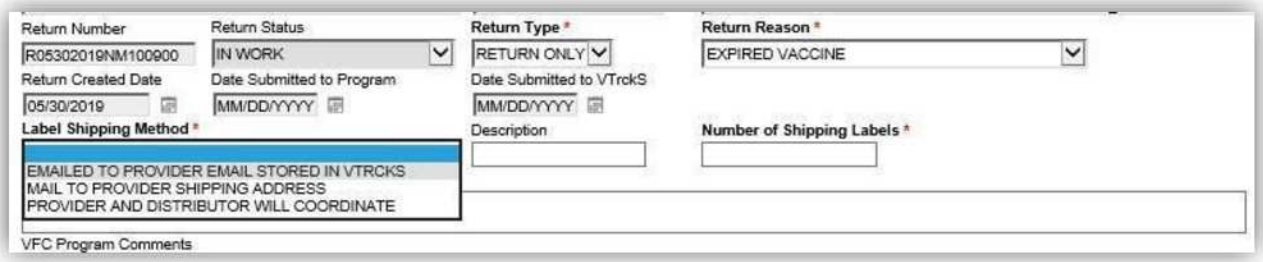
Step 5. The Vaccine Return screen is now displayed. Under Return Type, select **Return Only.**

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Step 6. Select the appropriate reason – most commonly **Expired Vaccine** - as the Return Reason in the drop-down menu.



Step 7. In the drop-down menu for "Label Shipping Method," select your preference (mail vs. email) for receiving shipping labels. In the "Number of Shipping Labels" box, enter the number of labels you will need to ship the vaccine return – usually 1 label for every 100 doses. The "Clinic Comments" text box is an optional but useful space to explain the need to return non-expired vaccine.



Step 8. To find the vaccine in your inventory, begin typing a name, NDC, funding source, or lot number for the vaccine that will be returned. Enter the number of doses to be returned. **Click Add Return.**
Repeat this step for any additional vaccine lots to be returned.

Step 9. On the right side of the screen, click on the drop-down arrow next to **Update** and click on **Submit to VFC Program.** On the right side of the screen, click on **Links**. Then click on **Vaccine Return Details**. A *Vaccine Return Detail Report* will generate. Print 2 copies, one to keep in your files and one to place in the box with the returned vaccines. When you receive the return label, place it on the box of vaccines to be returned. Place a copy of the *Vaccine Return Detail Report* in the box with the vaccines to return.

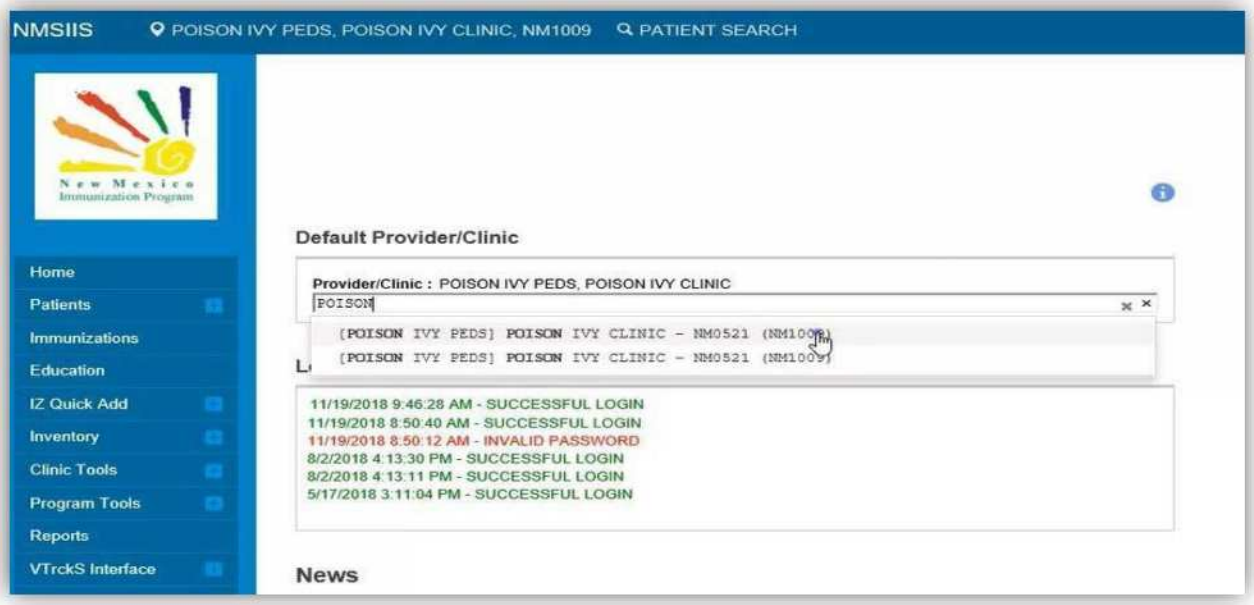
Spoiled Vaccines

If have vaccine that may have been spoiled (e.g., due to a temperature excursion) you must submit a Troubleshooting Report (TSR) and contact the Vaccine Manufacturer for their determination of the vaccine's viability. You will follow the same return process as above – including entering the appropriate *Return Reason* - for any doses that are deemed non-viable after the incident has been reviewed by the Vaccine Manufacturer and the Immunization Program has sent you a response to your completed TSR.

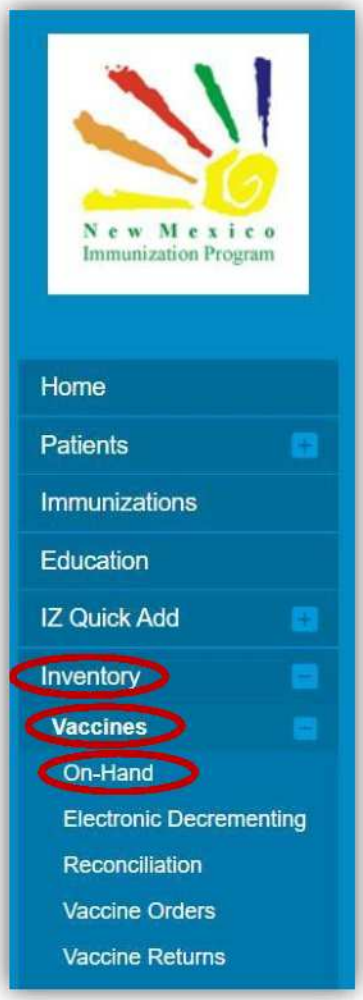
If you are making an adjustment to your inventory for wastage, that process is different, and those instructions begin on the next page.

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Wasted Vaccine



Before you begin make sure you click on the correct provider and clinic on the home screen



Next click *Inventory* to expand the menu
Click *Vaccines* to expand the menu
Click on *On-Hand* to navigate to the vaccine inventory on-hand

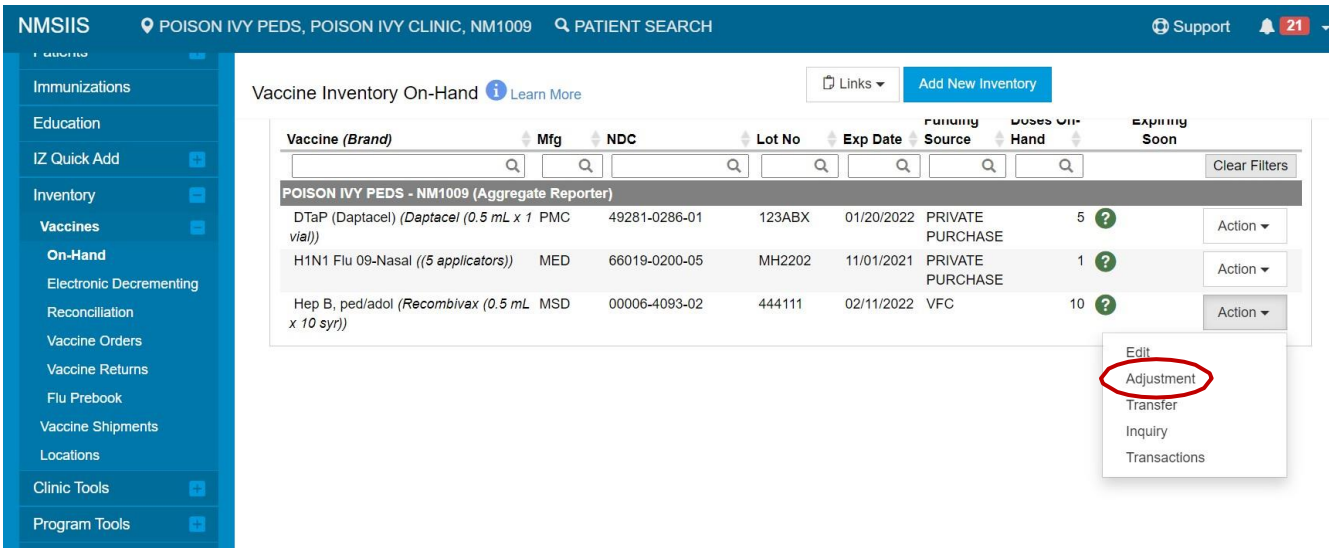
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Click on the *Inventory Location* for your clinic

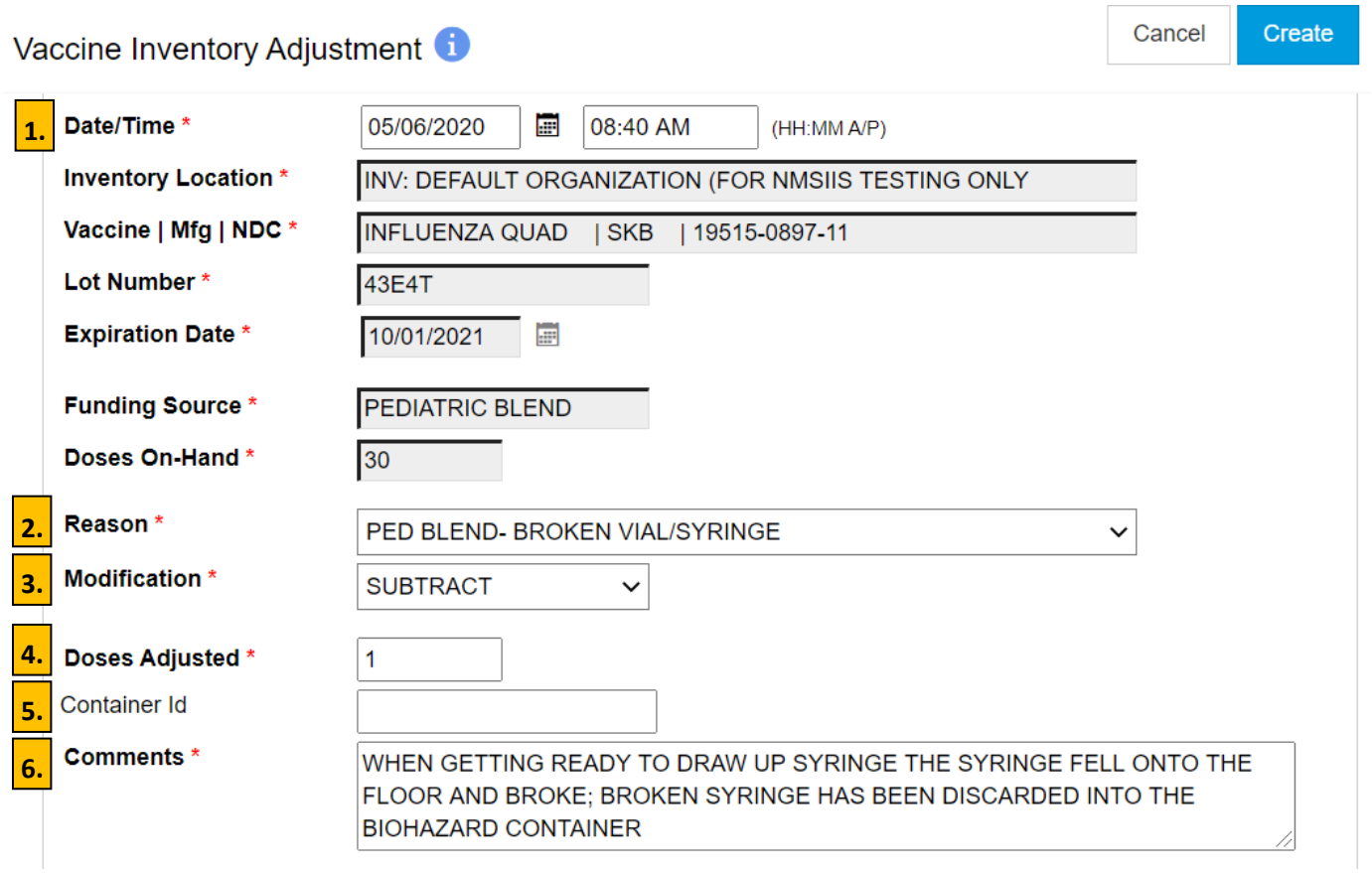
Locate the vaccine with the wasted dose or doses.

Then click on *Action* drop-down for the vaccine with wasted dose or doses

Next click on *Adjustment*



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1. Enter the *Date and time* for the adjustment

   Note: All adjustments must be entered prior to physical count for reconciliation. By doing all adjustments prior to physical count the adjustment will fall within your reconciliation time frame.

2. On the *Reason* drop-down the only reasons that should ever be chosen for VFC vaccines are any of the first three options reading "PED BLEND" for the wasted vaccine. *No other options should ever be used.*

   Note: The option ***Private Inventory*** is **only** for those providers who reconcile privately purchased Inventory.

3. Click on the drop-down for *Modification* and select *subtract*

4. Click on *Doses Adjusted* and type in the number of doses that were wasted

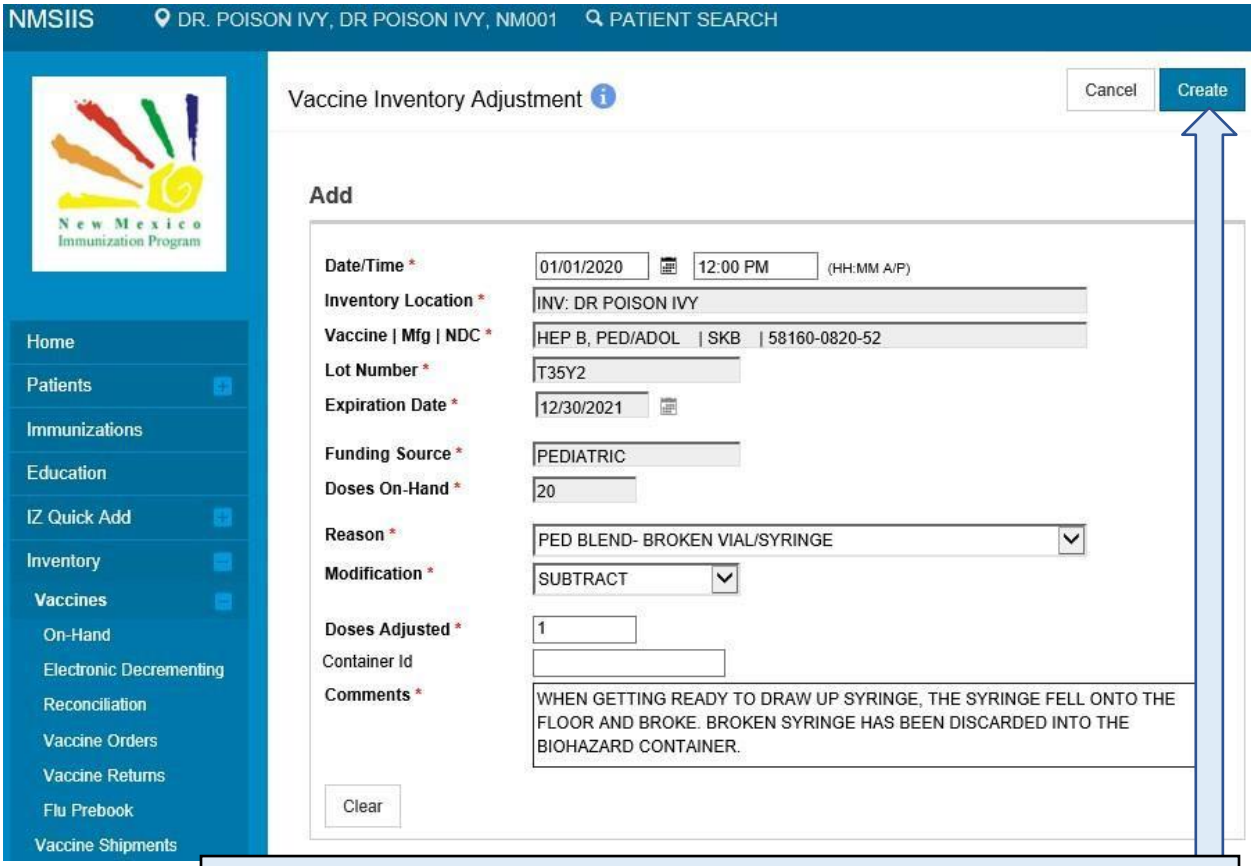
5. On your *Vaccine Inventory Adjustment* all the fields must be completed except for *Container ID – this field will be left blank*

6. Click in the *Comments* section and type in a detailed description of what happened to the dose or doses

   Note: The Comments Field is required and will accommodate up to 250 characters

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When all the fields have been completed for the Vaccine Inventory Adjustment (except for Container Id) click on *Create* at the top right-hand corner of your screen



Click on *Create* at the top right-hand corner of your NMSIIS screen

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Policies and Procedures

Eligibility and Billing

Providers administering COVID-19 vaccines are not permitted to bill the patient for the cost of the vaccine. Vaccine administration fees may be charged to patient's insurance; however, providers must not deny administration of COVID-19 vaccine to a patient based on inability to pay this fee.

Vaccine Orders and Inventory

Providers should order quantities of vaccine they can realistically expect to use and should monitor the expiration dates of vaccines in their inventory. If your inventory includes short-dated vaccine that you do not expect to use before it expires, please contact the Immunization Program; we will attempt to transfer the doses to another provider.

Providers are expected to monitor their vaccine supply and reconcile their inventory weekly. Instructions for completing a reconciliation can be found in NMSIIS under Reports -> New Mexico Forms and Documents -> COVID Reconciliation Process 2020

Vaccine Returns

Providers should use or transfer short-dated doses to avoid allowing vaccine to expire. However, if vaccine doses in your inventory are spoiled or expired, please submit a return and a Troubleshooting Report (TSR), if needed, in NMSIIS as soon as possible. This will generate an address label which you will use to return the expired doses. Instructions on submitting a return can be found above.

Storage and Handling

All staff working with publicly funded vaccines should be trained in vaccine storage and handling protocols. Refrigerators should maintain temperatures between 2° C and 8° C (36° F and 46° F); freezers should maintain temperatures between -50° C and -15° C (-58° F and +5° F) and -70° C to -90° C (-94° F and -130° F) for Ultra-cold storage. Every vaccine storage unit must have a functioning temperature monitoring device. The New Mexico Immunization Program **strongly** recommends the use of digital data loggers (DDLs) for monitoring unit temperatures. If a DDL is not used, unit temperatures should be recorded on a temperature log at least twice daily. If a temperature excursion occurs, providers must complete an Immunization Troubleshooting Record (TSR) and contact the New Mexico Immunization Program at covid.vaccines@state.nm.us for instructions.

Emergency Vaccine Management Plan

The New Mexico Immunization Program requires that providers develop and maintain an Emergency Vaccine Management Plan. A sample, fillable Plan can be found in NMSIIS Reports. The completed Plan should be stored near the vaccine storage unit(s) and updated as needed. Returning the completed plan to the Immunization Program is not required.

Temperature Excursion Protocol. In the event of an out-of-range temperature incident, consult and follow your Emergency Vaccine Management Plan. Complete the COVID-19 Immunization Troubleshooting Record form, following all instructions on page 1 of that form and return to the Immunization Program via email covid.vaccines@state.nm.us. **Do not** return, discard, or administer vaccines until the NM Immunization Program provides further instructions.

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Contact Us

Please direct questions and comments to:

New Mexico Immunization Program – COVID-19

Email: covid.vaccines@state.nm.us

NMSIIS Help Desk

1-833-882-6454

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Appendices

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NM-OTERO-21-0275-A-000364

Resources for COVID-19 Vaccine Providers

NMSIIS / Immunization Program Help Desk: 1-833-882-6454

COVID-19 Immunization Program email: covid.vaccines@state.nm.us

NMSIIS Reports: https://nmsiis.health.state.nm.us/webiznet_nm/WebCode/Reports/ListReports.aspx

Department of Health COVID-19 website: https://cv.nmhealth.org/

NMDOH COVID-19 hotline: 1-855-600-3453

CDC COVID-19 Vaccine Training for Healthcare Professionals: Information about the module can be found at: https://www.cdc.gov/vaccines/covid-19/vaccination-resources.html. The direct link to the module is at: https://www2.cdc.gov/vaccines/ed/covid19/.

New Mexico COVID-19 Updates: https://www.newmexico.gov/category/health/

Together New Mexico website: https://www.togethernm.org/

CDC COVID-19 website: https://www.cdc.gov/coronavirus/2019-ncov/index.html

VaccineFinder website: https://vaccinefinder.org/

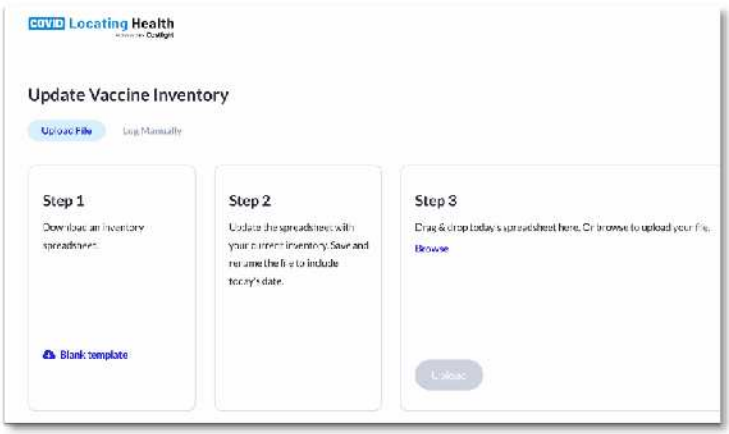
U.S. Food and Drug Administration: https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/emergency-use-authorization

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VaccineFinder COVID-19 Vaccine Supply Reporting and Finder System

What is VaccineFinder?

The VaccineFinder[1] platform helps the public find providers who offer select vaccines in communities across the United States. VaccineFinder's data are sourced via the provider platform, Locating Health.



The new COVID Locating Health Provider Platform will allow for easy reporting

VaccineFinder's role in the COVID-19 response

VaccineFinder and Locating Health provider platforms will serve two roles in the COVID-19 Vaccination Program.

1. **Inventory reporting** (required for all providers): COVID-19 vaccination providers will report on-hand COVID-19 vaccine inventory each day.
2. **Increase access to COVID-19 vaccines** (optional for providers): Once there is enough supply, COVID-19 vaccination providers may choose to make their location visible on VaccineFinder, making it easier for the public to find provider locations that have COVID-19 vaccine available. CDC will be directing the public to use VaccineFinder to find locations offering COVID-19 vaccine.

What providers need to know

The COVID-19 Vaccination Program Provider Agreement requires providers to report vaccine supply information as directed by CDC. Organizations or provider locations receiving COVID-19 vaccine should report supply information daily to VaccineFinder using the online COVID Locating Health Provider Portal. Vaccination providers can report manually via the secure COVID Locating Health Provider Portal; or via an automated secure data transfer directly to the COVID Locating Health Platform.

When COVID-19 vaccine supply is limited, data reported will only be used for vaccine inventory information—not as a resource to help the public find vaccine. When vaccine is more widely available, providers will be notified that the VaccineFinder public-facing website will be turned on to show COVID-19 vaccination locations. This will allow the public to know where they can go to receive a COVID-19 vaccination. Providers will be able to choose whether their location is displayed on the website. For participating providers, the VaccineFinder website will show the provider's location and contact information and will indicate that the provider has vaccine available. Specific inventory information will not be available to the public.

VaccineFinder onboarding and reporting

The process below outlines onboarding and reporting for VaccineFinder via the COVID Locating Heath Provider Portal. The reporting structure chosen by each organization must be maintained for the duration of the COVID-19 Vaccination Program.

1. COVID-19 vaccination providers must be registered in CDC's Vaccine Tracking System (VTrckS). Providers registered in VTrckS will receive an email from the COVID Locating Health Provider Portal with instructions for completing the enrollment process. This email will be sent to the provider organization's email address submitted in the provider enrollment form.
2. Organizations will determine whether they will report daily on-hand inventory on behalf of all their provider locations (e.g., a clinic headquarters office reporting on behalf of satellite clinics), or whether individual provider locations are responsible for reporting this information. Once a determination is made, it must be maintained for the duration of the COVID-19 Vaccination Program.

[1] VaccineFinder (www.vaccinefinder.org) is maintained by HealthMap (https://healthmap.org) in partnership with CDC and Castlight Health.

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- Provider locations designated as inventory reporting entities by their organizations will receive instructions for completing the COVID Locating Health Provider Portal enrollment process.

3. Organizations enrolled in the COVID Locating Health Provider Portal can view their approved provider location details and update inventory within the portal. Provider locations identified as inventory reporting entities will enroll to access their COVID Locating Health Provider Portal account and report daily COVID-19 vaccine inventory.
4. Additional details on steps for onboarding will be available on November 16, 2020.

Existing VaccineFinder accounts: What if I already report data for routine vaccines via my existing Locating Health account? Can I just use that account?

All COVID-19 vaccination providers will need to create a new account in the COVID Locating Health Provider Portal specifically for COVID-19 vaccine information.

- There will initially be two Locating Health Provider Portals (plans are in place to integrate these provider portals into one platform in the coming months):
  - **Locating Health Provider Portal** for reporting seasonal and routine vaccine availability
  - **COVID Locating Health Provider Portal** for required daily reporting of on-hand COVID-19 vaccine inventory quantities
- **If you are reporting manually**:
  - Organizations will continue to access the existing Locating Health Provider Portal to update availability of influenza and other routine vaccines and medications.
  - Organizations will log into the new COVID Locating Health Provider Portal to submit daily COVID-19 vaccine inventory reports for each participating provider location (online form or batch upload).
- **If you are using automated reporting**:
  - Organizations will continue to send data files to VaccineFinder to update availability of influenza vaccines and routine adult and child vaccines and medications at their provider locations.
  - For COVID-19 reporting, organizations will add COVID-19 vaccination providers and COVID-19 vaccine quantities to their existing data file and send to VaccineFinder via the usual process.

How the public uses VaccineFinder

VaccineFinder's goal is to make it easy for people to find a nearby location where they can be vaccinated. For 11 years, the VaccineFinder website has helped people find clinics that offer seasonal influenza and routine adult and child vaccinations. Once COVID-19 vaccines are widely available, VaccineFinder will help people find locations where they can receive COVID-19 vaccine.At the website, a person may enter their ZIP code and search for a provider that has a specific vaccine in their area. VaccineFinder displays mapped results of locations and vaccine availability.

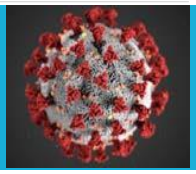
***To register your location in VaccineFinder**:*

For COVID-19 vaccination, you must coordinate with your organization or jurisdiction's immunization program.

For routine vaccinations, register at https://locating.health/register.

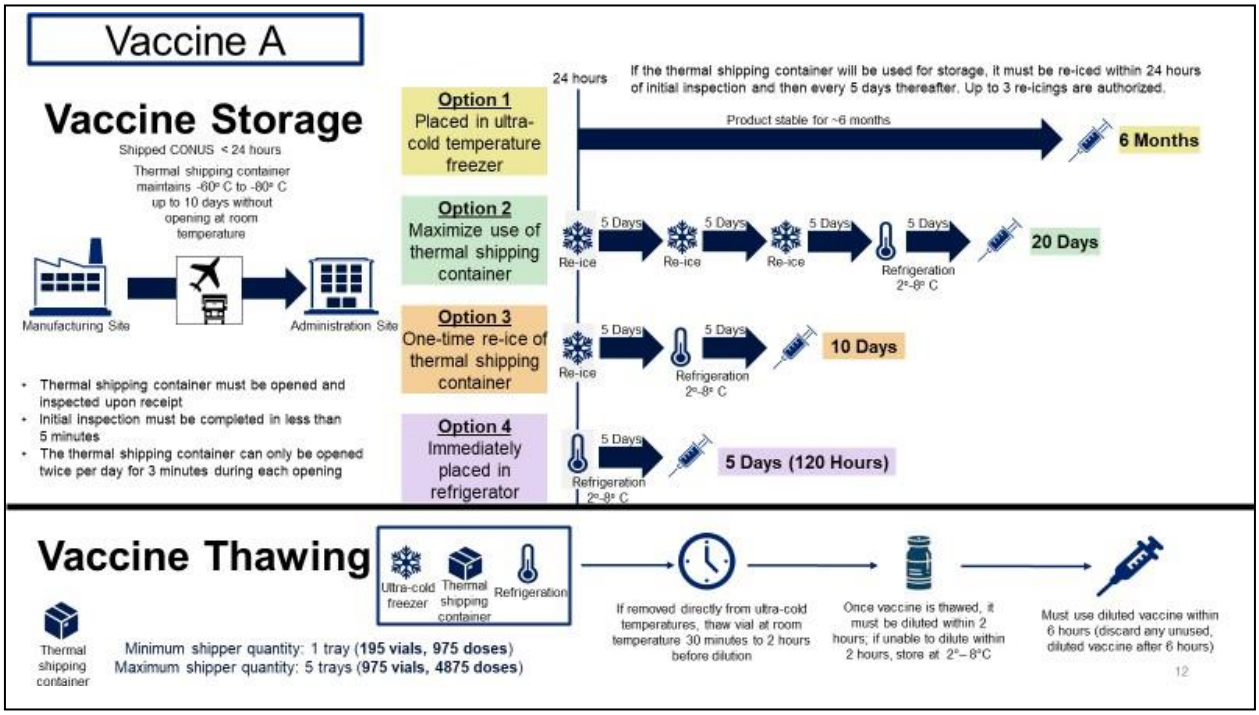
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NM-OTERO-21-0275-A-000367



The following materials are being provided to inform planning activities

Vaccine A *Storage and Handling Guide*



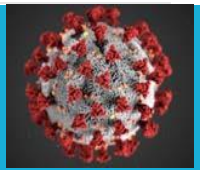
Vaccine A vaccination provider site archetypes for shipment timing and site planning

Site Types for Vaccine A Product

Vaccination provider site	Ordering assumptions			Operating assumptions				
	Order size	Storage conditions	Patient flow	Number of immunizers	Patients per immunizer	Hours per day	Vaccines per day	Shipment model
A – large outpatient center (mass vx)	1 tray (975 doses)	Thermal box with dry ice, 2-8C fridge, for product estimated at site (5 days)	~500/day	10 immunizers	6 patients/hour (~10 min/Vx)	8 hours	480 vaccinations	1 tray; 2-3 times per week
B – hospital or outpatient center	1 tray (975 doses)	Ultra-cold freezer, Thermal box with dry ice, 2-8C fridge, for product estimated at site (5 days)	Variable	4 immunizers	6 patients/hour (~10 min/Vx)	8 hours	192 vaccinations	1 tray; every week
C – large hospital with affiliated outpatient center	5 trays (4,875 doses)	Ultra-cold freezer, Thermal box with dry ice, 2-8C fridge, for product estimated at site (5 days)	Variable	7 immunizers (hospital outpatient clinic)	6 patients/hour (~10 min/Vx)	8 hours	340 vaccinations	1 tray; 1-2 times a week
D – outdoor parking lot vaccination hub at large retail pharmacy	1 tray (975 doses)	2-8C fridge, for product estimated at site (5 days)	~200/day	5 immunizers	6 patients/hour (~10 min/Vx)	N/A	240 vaccinations	1 tray; every week
E – mobile vaccination in targeted geographic areas	5 trays (4,875 doses)	2-8C fridge, for product estimated in mobile unit (5 days)	Variable	3 immunizers	6 patients/hour (~10 min/Vx)	Not specified	150 vaccinations	1 tray; every week

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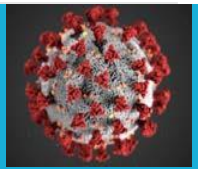
CDC COVID-19 Vaccine Product Information



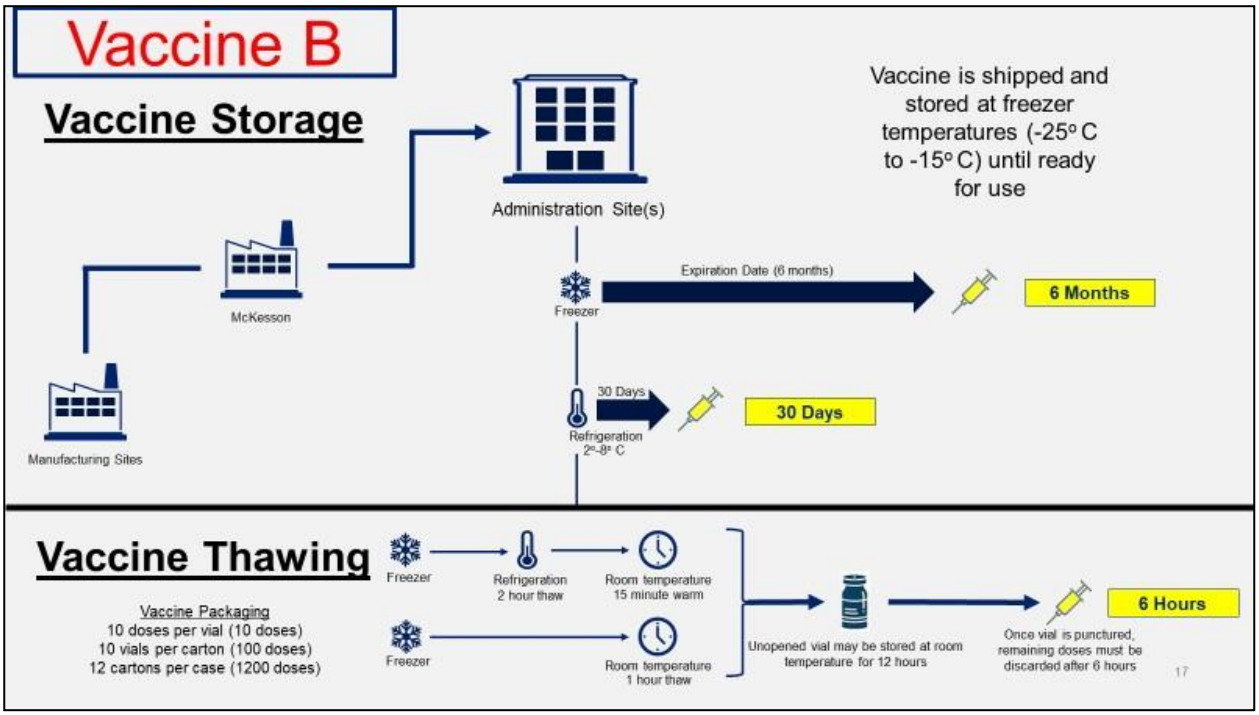
Site Types for Vaccine A Product

Vaccination provider site	Order size	Storage conditions	Patient flow	Number of immunizers	Patients per HCP	Hours per day	Vaccines per day	Shipment model
F – large indoor spaces not used during pandemic (convention hall)	5 trays (4,875 doses)	Thermal box with dry ice, 2-8C fridge, for product estimated at site (5 days)	Variable	10 immunizers	6 patients/hour (~10 min/Vx)	8 hours	480 vaccinations	2-3 trays; every week
G – Drive-through vaccination clinic	3 trays (2,925 doses)	Thermal box with dry ice, 2-8C fridge, for product estimated at site (5 days)	Variable	10 immunizers	6 patients/hour (~10 min/Vx)	8 hours	480 vaccinations (by 7 days)	2-3 trays; very week

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Vaccine B *Storage and Handling Guide*



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Direct-Ship Vaccine and Ancillary Kit

Pfizer Vaccine (Direct Ship)

Manufacturer	Pfizer
NDC # in VTrckS	59267-1000-02
Tray dimensions	229mm x 229mm x 40mm (approximately 9in x 9in x 1.5in)
Minimum order size and increment	975 doses
Presentation	5-dose multidose vial/195 MDV per tray
Items automatically added to your VTrckS order when you select this vaccine	Combined ancillary supply kit for administration and mixing (includes 0.9% preservative-free normal saline diluent)
Age indications	TBD
Vaccination schedule	2-dose series separated by at least 21 days
On-site vaccine storage	• -80°C to -60°C (-112°F and -76°F) in ultracold storage unit • -80°C to -60°C (-112°F and -76°F) in the original thermal shipping container with dry ice recharges. Please allow for forthcoming information on the maximum time for storage in these conditions. • 2° C to 8°C (36° F to 46°F) in a storage unit for up to 5 days (120 hours)
Additional information	• Vaccine will be shipped in a container that includes dry ice. Thermal shipping container dimensions are 400mm x 400mm x 560 mm (approximately 15 3/4in x 15 3/4in x 22in). • A thermal shipping container holds up to 5 cartons/trays. • If using the thermal shipping container to store vaccine, add dry ice pellets (9 mm to 16 mm) within 24 hours of delivery and every 5 days or as needed to maintain temperatures. • Unless a provider opts out, dry ice will be delivered within 24 hours of vaccine delivery to refill the thermal shipping container for the first re-ice only. Additional dry ice will not be provided. Locate a dry ice source if planning to use the shipping container to store vaccine for more than 5 days. • Do not use or store dry ice or liquid nitrogen (LN_2) in confined areas, walk-in refrigerators, environmental chambers or rooms without ventilation. A leak in such an area could cause an oxygen-deficient atmosphere. • A full shipping container with vaccine and dry ice weighs approximately 80 pounds.

Pfizer: https://www.pfizer.com/

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Combined Ancillary Supply Kit for Administration and Mixing (Direct Ship)

Kit description	Combined kit with small syringes for vaccine administration, mixing supplies, and diluent		
NDC # in VTrckS	11111-0006-02 (Adult)		
Kit dimensions/weight	24 in x 20 in x 24 in/40 lbs		
Minimum order size and increment	Kit to support administration of 975 doses (plus overage), including 0.9% preservative-free normal saline diluent		
Accompanies 0.3mL-dose vaccines	Pfizer		
Order Intention	Initially only adult kits will be available, when authorized for use in younger populations, pediatric and mixed (pediatric and adult) will be available for ordering.		
Contents	Adult Kit* • 829 needles (22-25G X 1") • 200 needles (22-25G X 1.5") • 205 mixing needles (21-25G X1.5") • 1024 syringes (1mL) • 205 syringes (3mL or 5mL) • 2458 alcohol pads • 1000 vaccination record cards • 10 needle gauge and length charts • 20 face shields • 40 surgical masks • 200 Diluent vials	Pediatric Kit* • 1024 needles (25G X 1") • 205 mixing needles (21-25G X1.5") • 1024 syringes (1mL) • 205 syringes (3mL or 5mL) • 2458 alcohol pads • 1000 vaccination record cards • 10 needle gauge and length charts • 20 face shields • 40 surgical masks • 200 Diluent vials	Mixed Kit* • 926 needles (25G X 1") • 100 needles (22-25G X1.5") • 205 mixing needles (21-25G X1.5") • 1024 syringes (1mL) • 205 syringes (3mL or 5mL) • 2458 alcohol pads • 1000 vaccination record cards • 10 needle gauge and length charts • 20 face shields • 40 surgical masks • 200 Diluent vials
Additional information	• Products and brands for kit components may vary. • All needles for vaccine administration are safety needles. • Mixing needles are conventional. • Due to the limited supply of needles and syringes, specification of preferences for needles or syringes is not feasible. • Kit and pallet configuration ○ 1 kit = 975 vaccinations (plus overage) ○ 1 pallet = 8 kits (supports 7,800 vaccinations, plus overage)   For more information about ancillary kit components: COVID-19 Vaccine Ancillary Supply Kit Guidance		

*The total number of needles in each adult, pediatric, and mixed combined ancillary supply kit for administration and mixing will vary (adult–1,029; pediatric–1,024; mixed–1,026). The difference in total number is related to increasing the kit build efficiency.

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Dry Ice Kit (Direct Ship)

Kit description	Dry ice kit with starter materials
NDC # in VTrckS	11111-0007-03
Kit dimensions/weight	TBD
Minimum order size and increment	Kit to support initial dry ice recharge of one thermal shipping container
Accompanies ultracold vaccine	Pfizer
Contents	• Dry ice (weight and pellet size requested from the Strategic National Stockpile) • Gloves for working with dry ice(1 pair) • Face shield (1) • Ice scoop (1) • OSHA dry ice safety card (1)
Additional information	• Products and brands for kit components may vary. -

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NM-OTERO-21-0275-A-000373

Centrally Distributed Vaccines and Ancillary Kits*

Vaccines (Centrally Distributed)

Manufacturer	Moderna
NDC # in VTrckS	80777-0273-99
Carton dimensions	53mm x 53mm x 137mm (approximately 2in x 2in x 5 3/8in)
Minimum order size and increment	100 doses
Presentation	10-dose multidose vial/10 MDV per carton
Items automatically added to your VTrckS order when you select this product	Ancillary supply administration kit: standard syringe
Vaccination schedule	2-dose series separated by at least 28 days
Age indications	TBD
On-site vaccine storage	• -25°C to -15°C (-13°F to 5°F) in vaccine storage unit • 2° to 8°C (36° to 46°F) in vaccine storage unit for up to 30 days if the vial is not entered. • Freezer temperature settings will require adjustment if storing this vaccine and varicella-containing vaccines in the same unit. The temperature range for this vaccine is limited compared to varicella-containing vaccines.

*Pfizer's COVID-19 vaccine is not centrally distributed; it is distributed directly from the manufacturer. Please refer to the next section for information on Pfizer COVID-19 vaccine.

Moderna: https://www.modernatx.com/

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Ancillary Supply Administration Kit: Standard Syringe (Centrally Distributed)

Kit description	Standard syringe kit for vaccine administration
NDC # in VTrckS	11111-0001-01 (Adult)
Kit dimensions/weight	14 in x 13 in x 9 in/3.5 lbs (standard ancillary adult kit)
Minimum order size and increment	Kit to support administration of 100 doses (plus overage)
Accompanies 0.5mL-dose vaccines	Moderna
Order Intention	Initially only adult kits will be available, when authorized for use in younger populations, pediatric and mixed (pediatric and adult) will be available for ordering.
Contents	**Adult Kit** • 85 needles (22-25G x 1") • 20 needles (22-25G x 1.5") • 105 syringes (1mL or 3mL) • 210 alcohol pads • 100 vaccination record cards • 1 needle gauge and length chart • 2 face shields • 4 surgical masks **Pediatric Kit** • 105 needles (25G x 1") • 105 syringes (1mL or 3mL) • 210 alcohol pads • 100 vaccination record cards • 1 needle gauge and length chart • 2 face shields • 4 surgical masks **Mixed Kit** • 95 needles (25G x 1") • 10 needles (22-25G x 1.5") • 105 syringes (1mL or 3mL) • 210 alcohol pads • 100 vaccination record cards • 1 needle gauge and length chart • 2 face shields • 4 surgical masks
Additional information	• Products and brands for kit components may vary. • All needles for vaccine administration are safety needles. • Due to the limited supply of needles and syringes, specification of preferences for needles or syringes is not feasible. • Kit and pallet configuration ○ 1 kit = 100 vaccinations (plus overage) ○ 1 pallet = 36 kits (supports 3,600 vaccinations, plus overage)  For more information about ancillary kits components: COVID-19 Vaccine Ancillary Supply Kit Guidance

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From: Pamela Heltner <pheltner@co.otero.nm.us>
Sent: Tuesday, January 12, 2021 2:25 PM EST
To: gmatherly <gmatherly@co.otero.nm.us>; Couy Griffin <cgriffin@co.otero.nm.us>; vmarquardt@co.otero.nm.us <vmarquardt@co.otero.nm.us>
Subject: FW: County Detention Center Vaccine Rollout Phase 1b
Attachment(s): "COVID Vaccine Provider Guide 12.12.20.pdf"

FYI

Pamela Heltner, CPO, CPS
County Manager
1101 New York Ave. Room 106
Alamogordo, NM 88310
Tel: 575-437-7427
Fax: 575-443-2928
pheltner@co.otero.nm.us

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From: Bonnie Cummings <BCummings@nmcounties.org>
Sent: Tuesday, January 12, 2021 11:37 AM
To: Nvance@teamcenturion.com; Falcantara@teamcenturion.com; Ian Fletcher <ian.fletcher@catroncountynm.gov>; vanessa.torrez@mycorrhealth.com; mary.zold@mycorrhealth.com; dchavez.roadrunnerhealthsvc@gmail.com; dochristy@wellpath.us; jason.duran@corizonhealth.com; tbannister@co.eddy.nm.us; pcastillo@VitalCoreHS.com; Emartin@vitalcorehs.com; Jesus.casas@csgprograms.com; gera.johnson@mycorrhealth.com; KatOHSA@co.otero.nm.us; cathy.betrus@mycorrhealth.com; heather.martinez@quaycounty-nm.gov; roadrunnerhealthservices@outlook.com; L.dugar@roadrunnerhealthservicesnm.com; dochristy@wellpath.us; adriel.rodriquez@mycorrhealth.com; tamara.capone@mycorrhealth.com; Donaldson@wellpath.us; kmsilva@santafecountynm.gov; michelle.papp@taoscounty.org; Michael.Sedgwick@corecivic.com; Vincent.Velarde@corecivic.com; Detention Administrators <detention-administrators@nmcounties.org>
Cc: Managers Affiliate <managers.affiliate@nmcounties.org>; Taylor Horst <thorst@nmcounties.org>; Steve Kopelman <skopelman@nmcounties.org>; Grace Philips <gphilips@nmcounties.org>; Mark Allen <mallen@nmcounties.org>; Greg Rees <grees@nmcounties.org>; Swatek, Joshua, DOH <Joshua.Swatek@state.nm.us>
Subject: County Detention Center Vaccine Rollout Phase 1b

Good Morning Detention Administrators and Medical Professionals,

We have received word from NM DOH indicating Detention Center populations are considered a congregate housing setting and will be considered phase 1b in the vaccine rollout. In preparation for phase 1b, NM DOH is asking facilities **that are willing and able to store and administer the vaccine** to have their medical provider register at: https://cvprovider.nmhealth.org/request-access.html.

We have no expectation that you will receive vaccine shipments anytime soon but NM DOH wants providers to start registering in the system in preparation to receive the vaccine.
I have attached a copy of the COVID Vaccine Provider Guide to prepare you for the storage requirements and other requirements. At this point, the vaccine most likely to be distributed to County Detention facilities will be the Moderna vaccine.

NM DOH understands that some facilities are not currently able to store and administer the vaccine. As a result, NM DOH is exploring solutions to support an alternative process in which counties can offer the vaccine to their detainee population.

Josh Swatek will be our point of contact for any questions on the vaccine rollout.

Josh Swatek (He/Him/His)
Public Health Division
Joshua.Swatek@state.nm.us
Cell: (505)629-9142

Thank you,

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Bonnie Cummings, CIC, CRM, CISR
Loss Prevention Manager
New Mexico Counties
Cell 505-385-1442

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Guidance for

COVID-19 Vaccine Providers

NEW MEXICO
DEPARTMENT OF
HEALTH

Updated: December 12, 2020

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Preparing for COVID-19 Vaccine – are you ready?

The preparations for immunizing New Mexicans against COVID-19 are underway. This will be an unprecedented statewide effort, and it could never be accomplished without your participation. Thank you!

We are grateful to all the medical providers, nurses, medical assistants, and the staff members who will continue to work tirelessly to make this effort a success.

To help you prepare and to guide you throughout the coming tasks and challenges of receiving, handling, and administering these life-saving vaccines, we have prepared this reference manual.

In it you will find information and resources, as well as many instructional guides that will help orient and support COVID-19 Provider Sites in their preparations to ensure proper vaccine storage and handling, and temperature monitoring.

To help navigate the tasks associated with the actual vaccine inventory management, we have also included important step-by-step information on topics such as vaccine ordering, shipments, and inventory reporting and reconciliation. There are also guides on what to do if vaccine expires, becomes spoiled, or there is vaccine wastage.

We thank you.
We are with you.
We look forward to working together to protect New Mexico against COVID-19.

The New Mexico Department of Health Immunization Program

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NM-OTERO-21-0275-A-000381

Vaccine Storage

On-site purpose-built refrigerator and freezer units are required for the storage of most presentations of COVID-19 vaccines. All vaccine storage **and transport** units must be entered as ***Assets*** in NMSIIS.

Please note: *dormitory-style* refrigerators will ***not*** be approved for vaccine storage. A *dormitory-style* refrigerator is defined as a small combination refrigerator/freezer unit that is outfitted with one exterior door and an evaporator plate (cooling coil), which is usually located inside an icemaker compartment (freezer) within the refrigerator.

The vaccines stored at Ultra-low temperatures – also referred to as ULT or ultra-cold vaccines – have unique handling and storage requirements. Please see the *COVID-19 Vaccine Information* in the appendices for information on ULT vaccine storage and handling and *note that this section does not apply to these special circumstances.*

Adding vaccine storage and transport units as ***Assets*** in NMSIIS

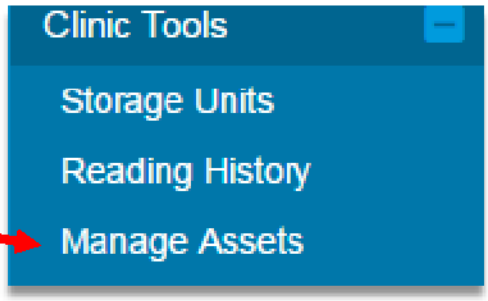
Add a Vaccine Storage Unit (Refrigerator, Freezer, or Transport Unit) in NMSIIS

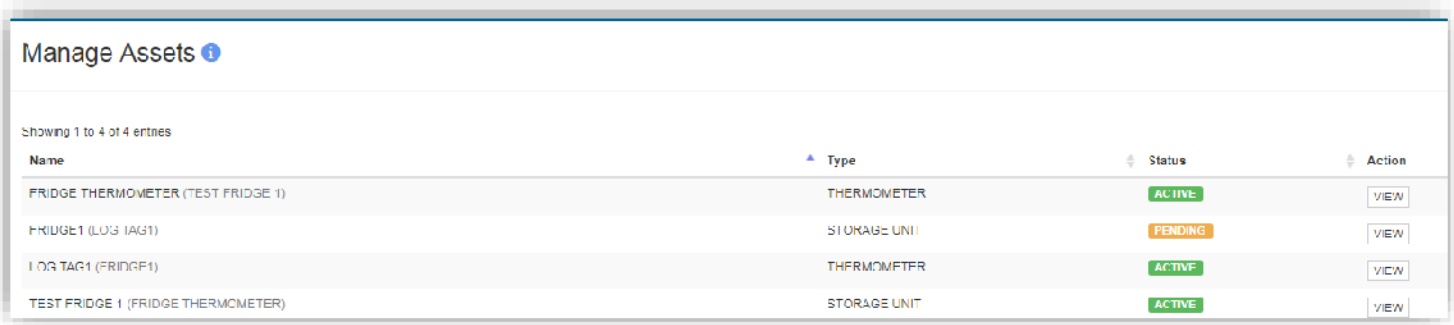
NOTE: Vaccine Transport Coolers must be added as Storage Units

Expand ***Clinic Tools***

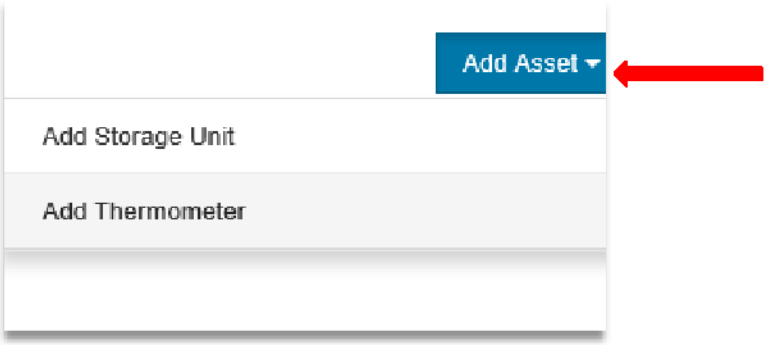
Click ***Manage Assets*** to display a summary of all active/inactive assets associated with the provider or clinic.

The summary list displays the unit name, type (thermometer or storage unit), and current status and looks like this:



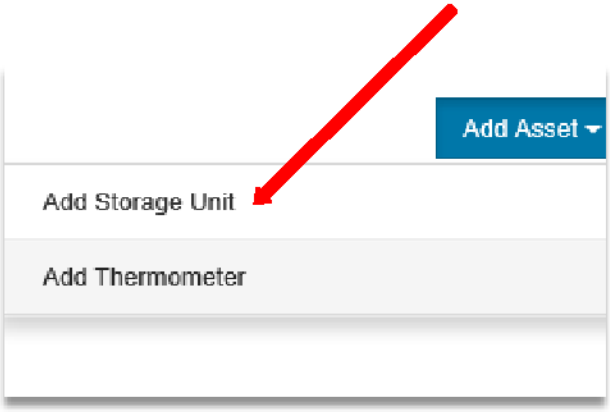


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To add a new asset (storage or transport unit, or thermometer) click the ***Add Asset*** button and on the drop-down select the asset type.

In this case we are adding a refrigerator, freezer, or transport cooler, so we will select ***Add Storage Unit***

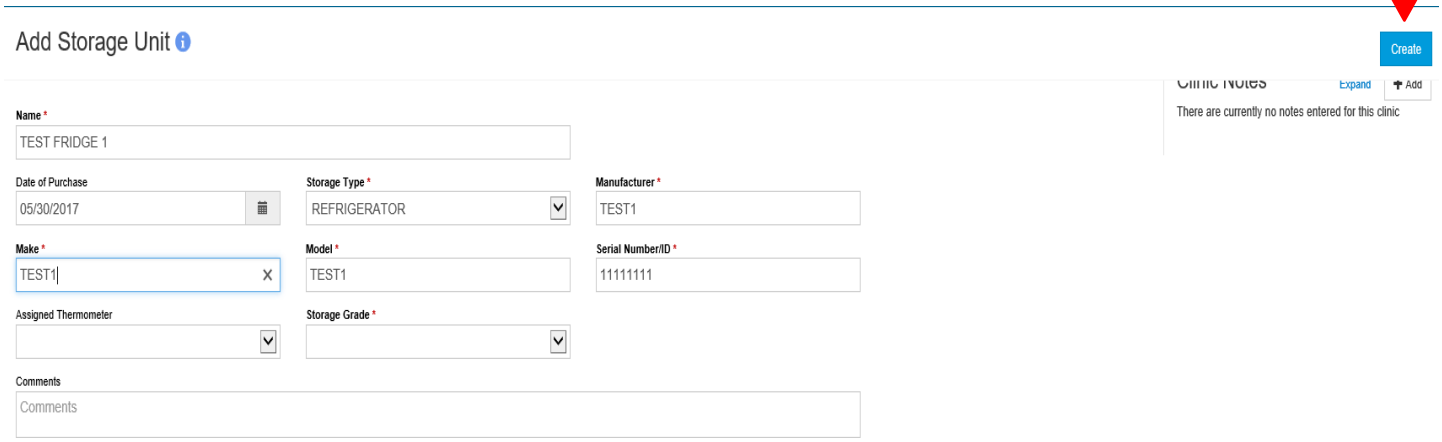


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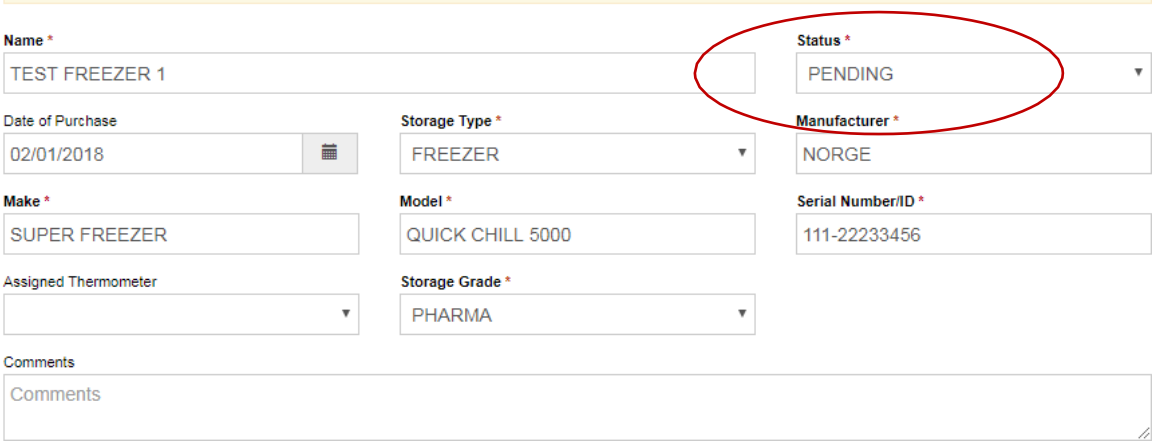
On the ***Add Storage Unit*** page enter all the required information pertaining to the unit you are adding. You can give your storage and transport units any name you wish. It is recommended that each unit have a different and identifiable name. For example, if you have two vaccine refrigerators, they should not both be named “Fridge” in NMSIIS, but rather something like “Fridge One” and “Fridge Two”.

When finished, click the ***Create*** button to save all entered information.

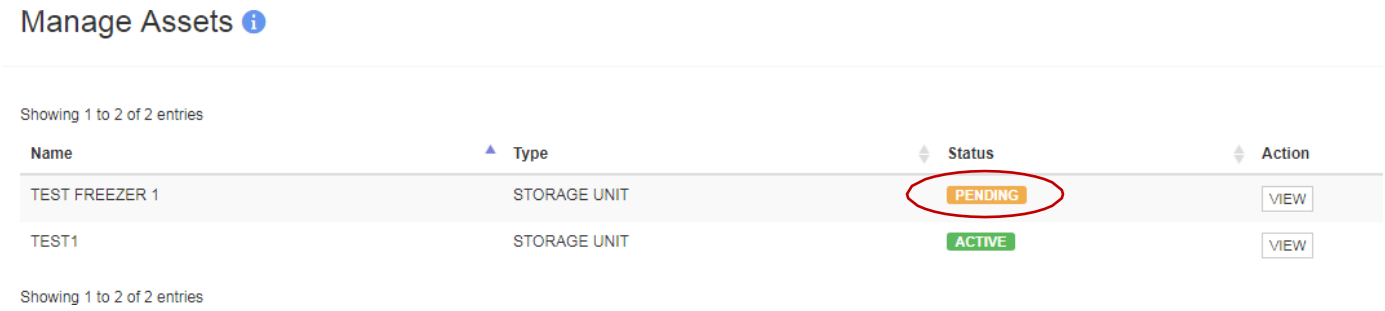
*NOTE: your information will not be saved if the **Create** button is not clicked*



In the ***View Storage Unit*** screen and you will see that the unit status is now “Pending”



The Immunization Program will ***automatically*** receive notification that you have added a storage unit and will then be able to activate it.

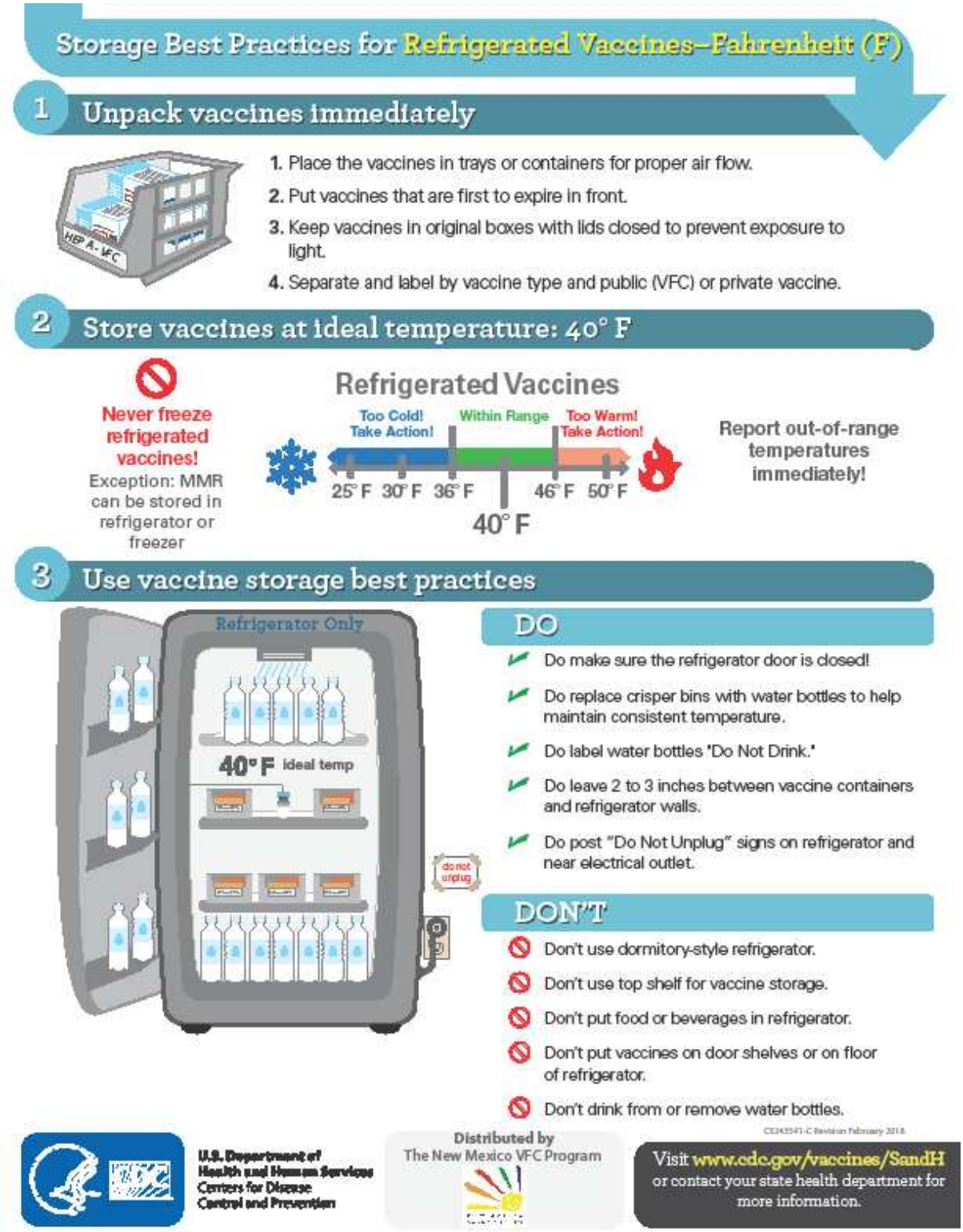


Please ***allow 48 hours*** for your unit to be activated; after 48 hours, check the status of your storage unit/s and if you confirm any are still in a ***Pending*** status (pictured above) please notify the Immunization Program via email at covid.vaccines@state.nm.us

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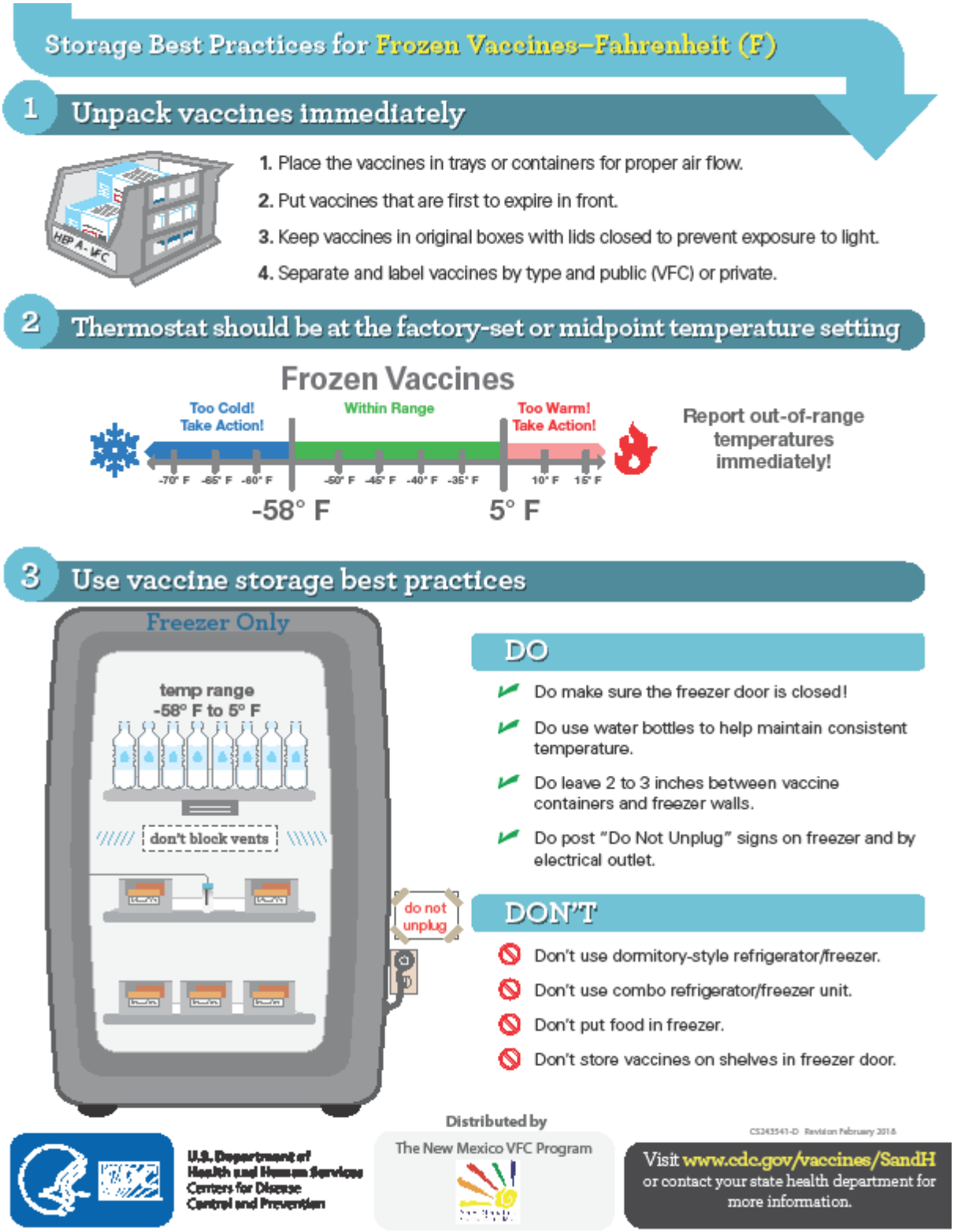
Vaccine Storage Best Practices

Refrigerated vaccine storage **Best Practices**



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Frozen vaccine storage **Best Practices**



NOTE: The vaccines stored at Ultra-low temperatures – also referred to as ULT or ultra-cold vaccines – have unique handling and storage requirements. Please see the Pfizer vaccine guidance in the appendices for detailed information.

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Continuous Temperature Monitoring and Reporting

The ability to ensure continuous temperature monitoring of all presentations of COVID-19 vaccines, regardless of recommended storage temperature range, is a requirement for all participating sites in New Mexico.

Digital Data Loggers (DDL)

To meet the requirement of continuous temperature monitoring, New Mexico requires the use of digital data loggers on all storage and transport units used for COVID-19 vaccines. These devices must meet CDC requirements and generate temperature files that are compatible with direct upload into NMSIIS. All vaccine DDLs must be entered as ***Assets*** in NMSIIS as shown here:

Add a Thermometer (Data Logger) in NMSIIS

Important: *each vaccine storage unit must have its own thermometer in NMSIIS*





Enter the required information for the new thermometer (all fields with a red*) ***and***:

- **Assigned Storage Unit** - storage units that do not have a thermometer assigned will appear in this drop-down
- **Date of Purchase** and **Calibration Due** – entering the date of calibration and how frequently calibration is due (in months) will help you keep track of this information and when your data logger needs to be recalibrated or replaced; for the VFC-400 enter 24; for any other units, please refer to manufacturer's recommendations
- **Important**: Thermometer Type drop-down = select **CTM**
- **Serial number** can be found on the data logger and/or calibration certificate
- Any additional information may be entered in the ***Comments*** field



When finished, ***be sure to click the Create button*** to save all entered information.

4

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All DDL devices must meet CDC requirements and must generate temperature files compatible with direct upload into the New Mexico Immunization Registry (NMSIIS); the VFC400 data logger has been approved for use on vaccine refrigerators, freezers, and transport units; other devices will require pre-approval based on the results of temperature file compatibility assessment.

The software for the DDL will need to be installed and correctly configured to enable the proper use of the device and upload of the required temperature files. Please notify your IT staff in advance if their assistance is required for software installations at your site.

IMPORTANT: Use software version 2.9 Build 6

For the VFC400 device, the software settings are shown below:

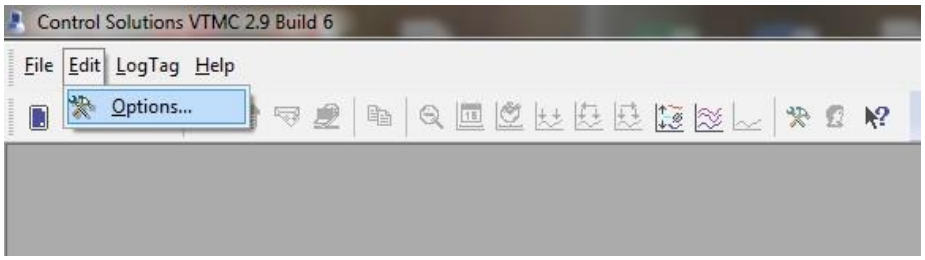
Control Solutions VTMC Software Settings

Please do not dock your data logger for this process.

This only needs to be done when the software is installed the first time (including if you switch computers)



Open the Control Solutions VTMC Software

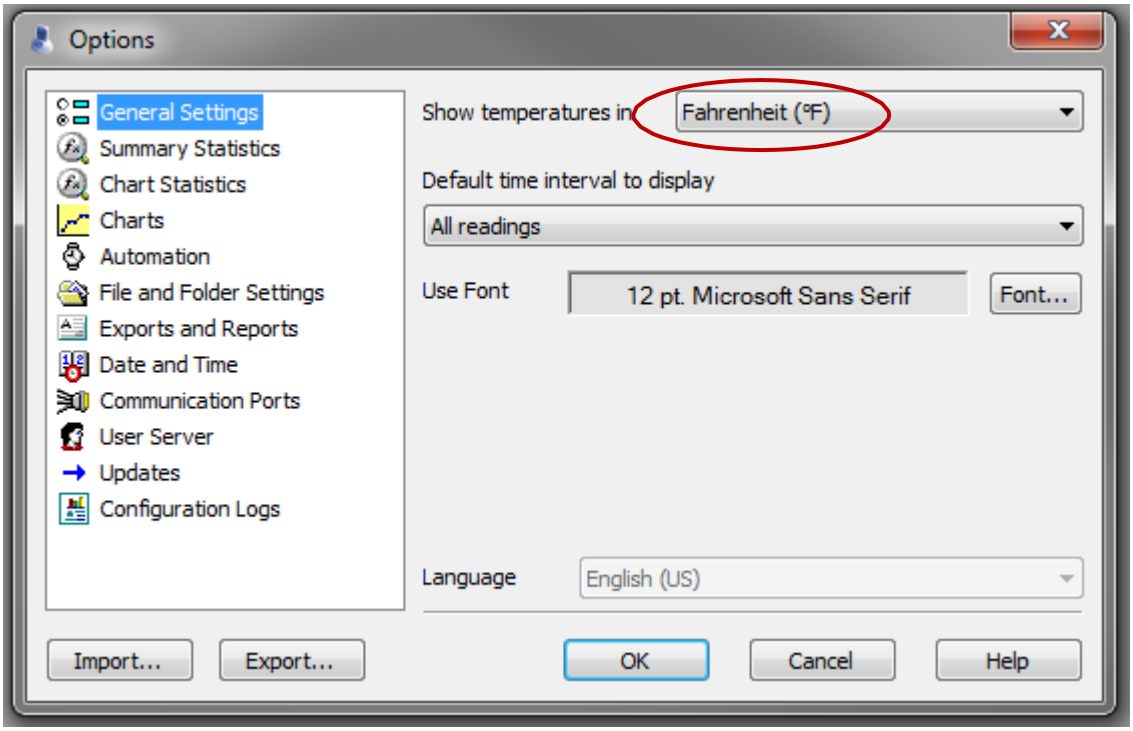


Go to ***Edit***, then ***Options***

Review the settings shown and ensure yours match these screenshots:

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GENERAL SETTINGS

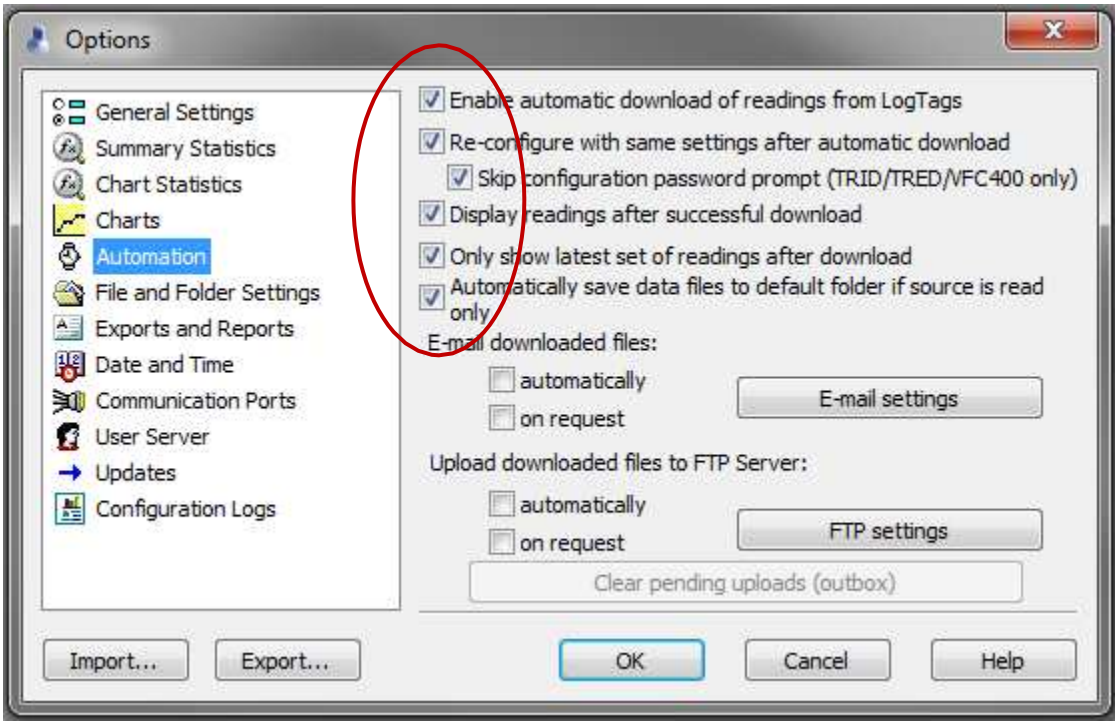


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AUTOMATION

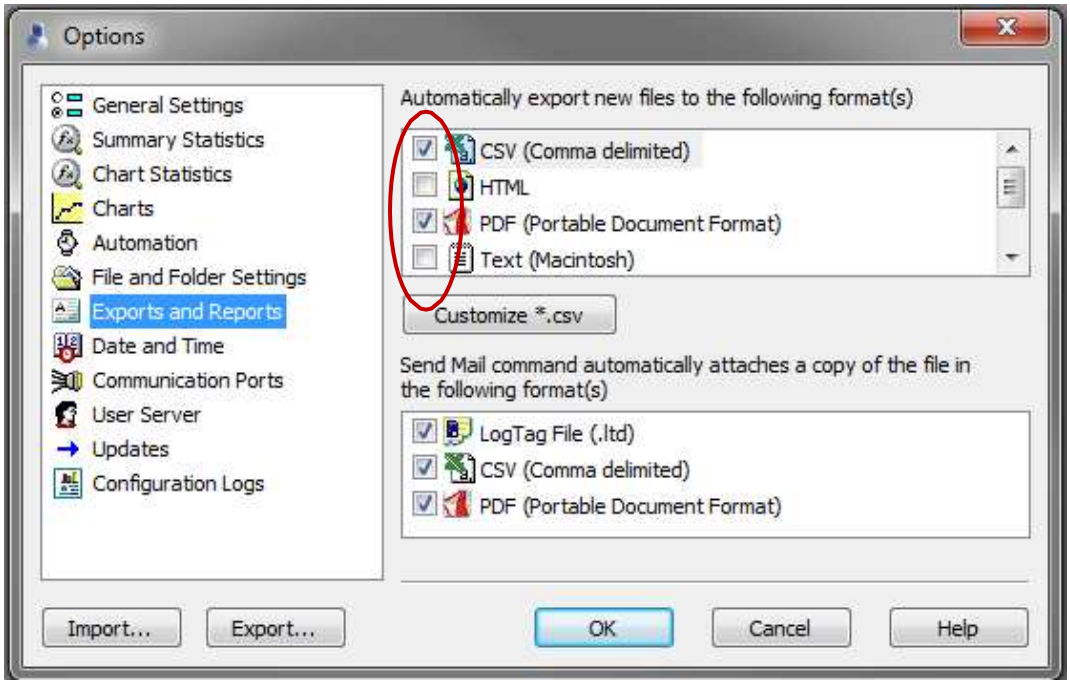
Please note that on this screen you may not see the third box (“Skip configuration password prompt”)

This is ***not a problem***; all other boxes should still be checked.



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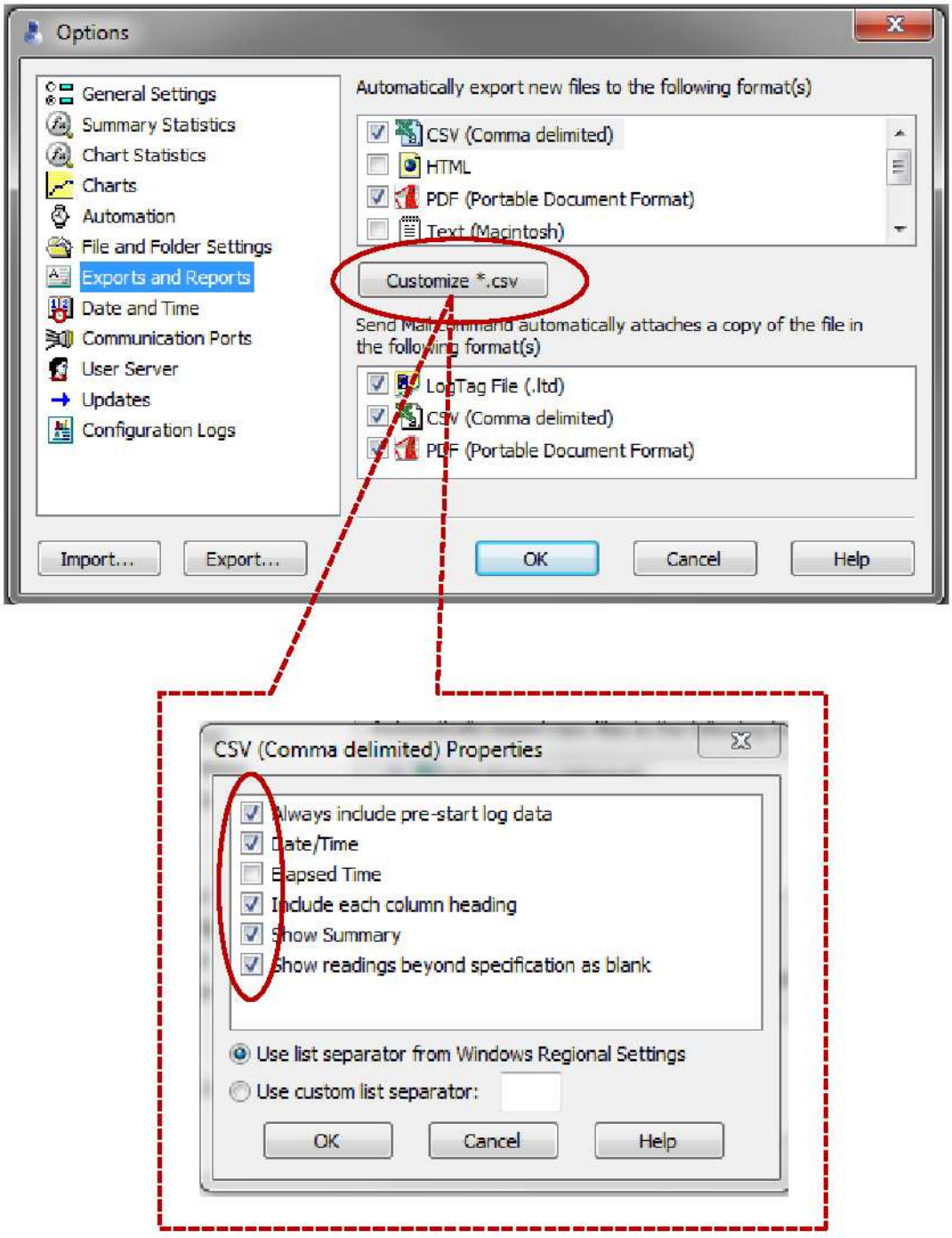
EXPORTS and REPORTS



When you have changed the settings for ***Exports and Reports*** shown above, the .pdf and the .csv files will save to your computer automatically when you dock your data logger (be sure to allow the data upload process to complete).

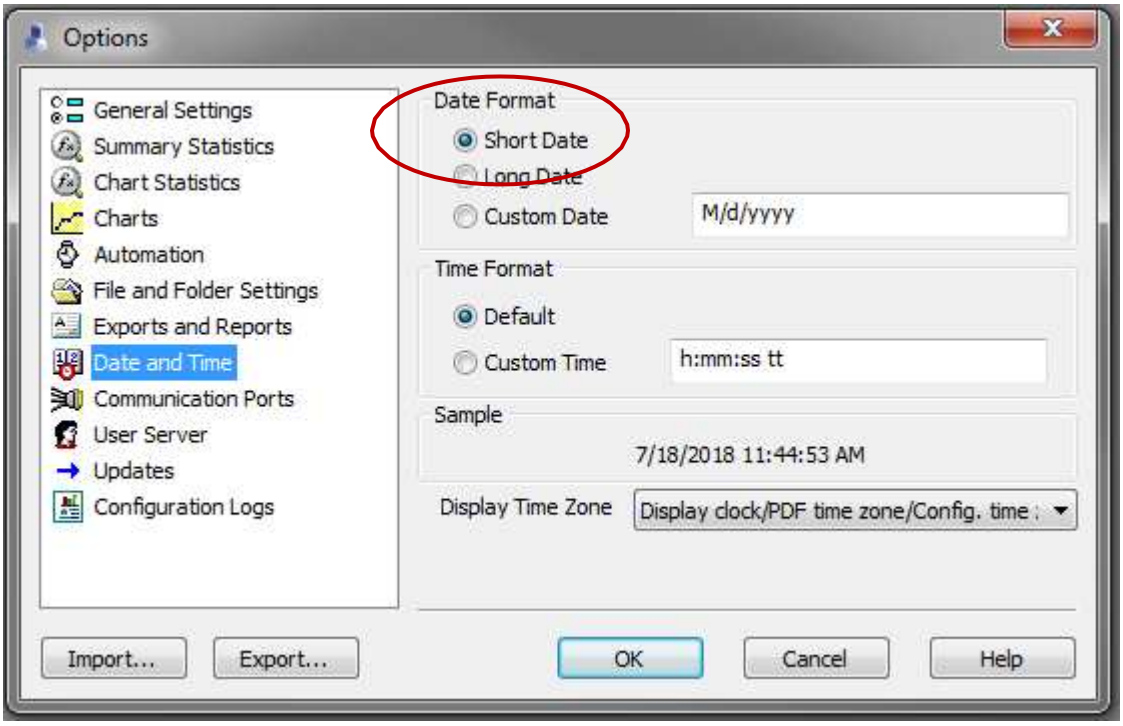
EXPORTS and REPORTS (cont.)

Click on the "Customize *.csv" button and the Properties window (shown below) will open. Make sure all the boxes are checked as shown.



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DATE and TIME



When you have finished matching all your settings to those shown here, be sure to click ***OK*** to save them

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Ordering and Receiving COVID-19 Vaccine in NMSIIS

Submitting a COVID-19 Vaccine Order in NMSIIS

All COVID-19 Vaccine orders will be submitted to the New Mexico Immunization Program via NMSIIS

If your facility is a Vaccines for Children (VFC) and/or Adult (317) provider that also orders other vaccines through NMSIIS, all orders for COVID-19 vaccines should be made as **separate transactions** from these orders.

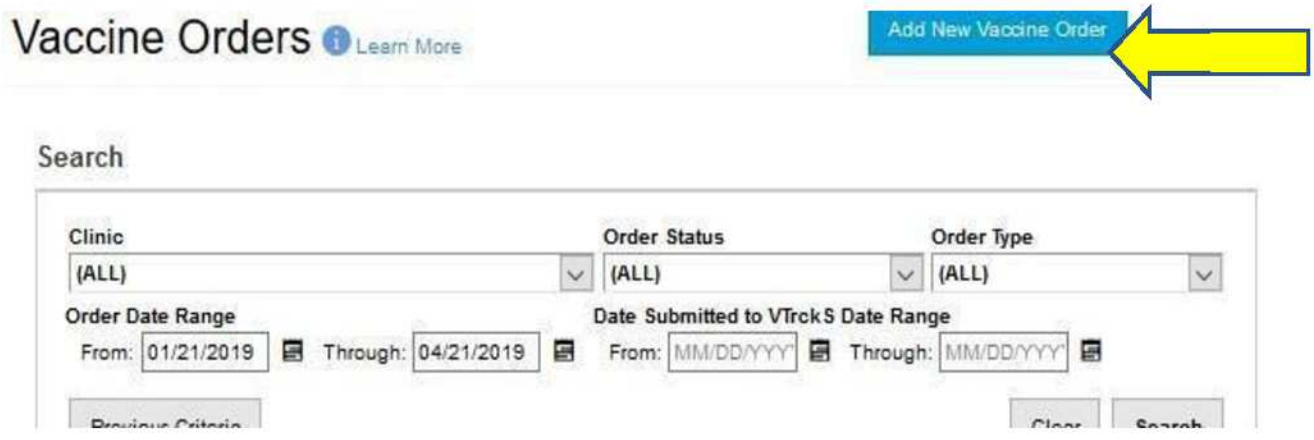
Ordering and Receiving COVID-19 Vaccine

Submitting a COVID-19 Vaccine Order in NMSIIS



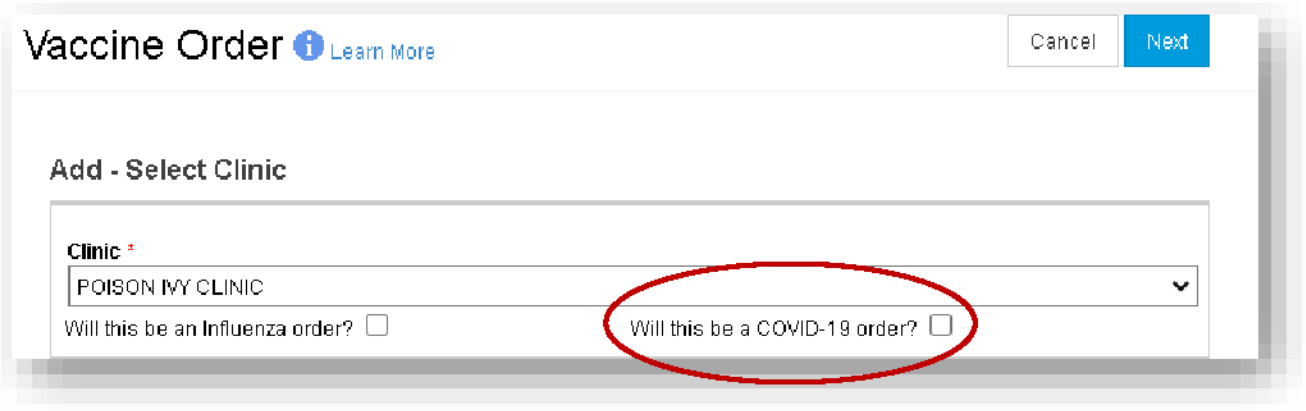
Step 1. In the blue panel to the left, navigate to the Inventory module and click the (+) sign to expand the menu. Then click the (+) sign next to "Vaccines" to expand that menu. Then select "Vaccine Orders."

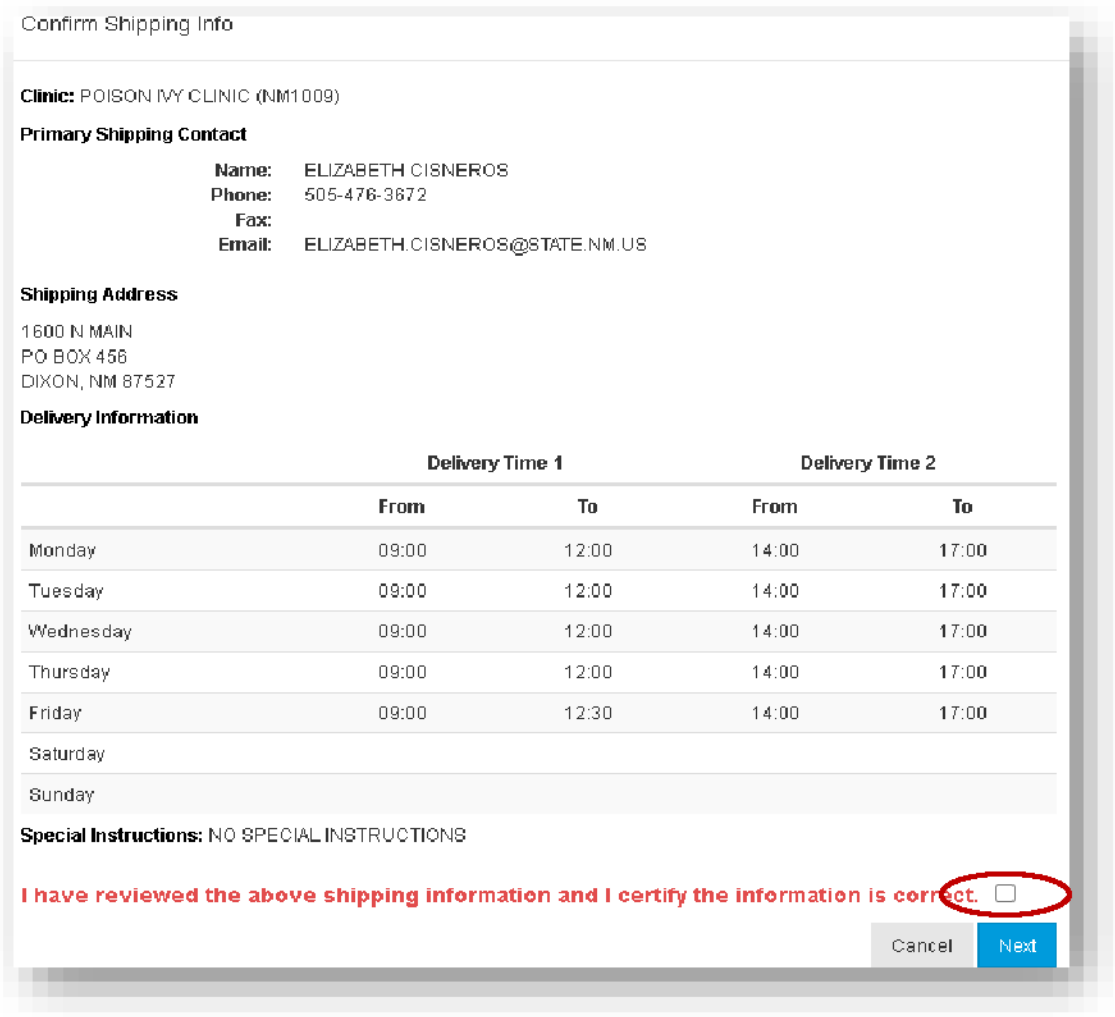
Step 2. In the upper right corner of the "Vaccine Orders" screen that displays, select "Add New Vaccine Order"



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NM-OTERO-21-0275-A-000395

Step 3. The Vaccine Order screen will display. When you initiate the order, it will give you the option to select if it is a COVID-19 order Select your clinic from the drop-down menu
After checking the COVID-19 order box and clicking the blue "next" button, you'll be asked to certify that the clinic and shipping information shown is correct.



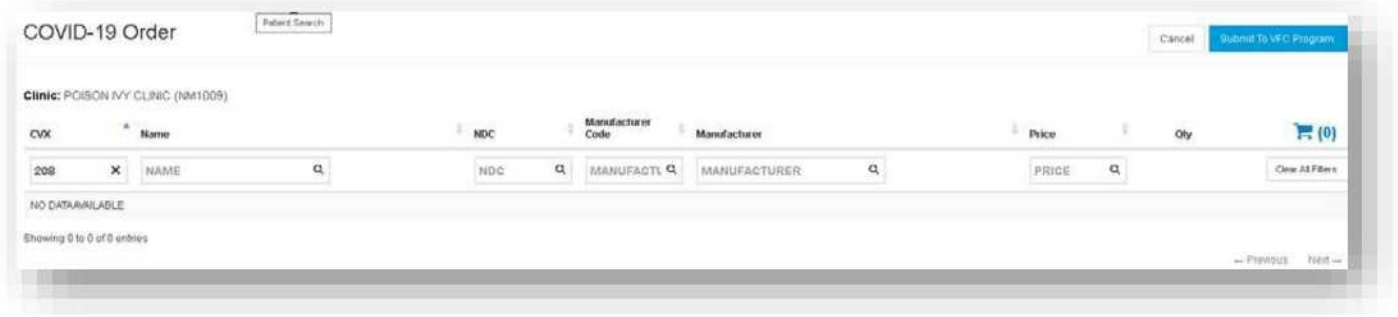


Step 4. Your clinic's shipping address, delivery hours, and shipping contact information will display. Once you have confirmed that the information is correct, check the box next to "I have reviewed the above shipping information and I certify the information is correct" and click **Next**. If any of the shipping information is incorrect, please update it with the correct information in NMSIIS ***before***

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placing your order.

Step 5. The COVID-19 Order screen view will now be displayed



This is what the order page will look like – Once complete, please review your order to ensure there are no errors; you may also add text in the "Clinic Comments" field

NOTE for vaccine being delivered from the DOH Depot: ***The vaccine Transport Team WILL make direct phone contact approximately 30 minutes before arrival.***

If you are placing an order for Pfizer vaccine you MUST enter the name and cell phone number of two staff who can be contacted by the Transport Team to coordinate the vaccine delivery and assist with the transfer of vaccine when it arrives

When processing your order for shipment or delivery, we will assume that the normal 48-72-hour turnaround time is preferred and expected. Please let us know if you have different timing needs with information in the comments and we will do our best to accommodate them.

After entering the vaccine order information, you'll submit to the program by clicking the blue button in the top right

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Receiving COVID-19 Vaccines into your On-Hand Inventory in NMSIIS

All COVID-19 Vaccine must be received into your inventory in NMSIIS to facilitate the administration, tracking, reporting, and reconciliation of each dose, as required by the CDC.

The receipt of vaccine into inventory is done in two different ways and depends on the type of vaccine being received.

- For guidance on the receipt of Ultra-low Temperature (ULT) COVID-19 vaccine, see Receiving a vaccine ***transfer*** in NMSIIS
- For guidance on the receipt of refrigerated or frozen COVID-19 vaccine, see Receiving a vaccine ***shipment*** in NMSIIS

Receiving a vaccine ***shipment*** in NMSIIS

1. In the blue panel at the left side of the NMSIIS home page, navigate to **Inventory** and select the (+) sign to expand your module view. Then click on the Vaccines plus sign to expand your view further and select **On-Hand**.
2. On the On-Hand inventory page that appears, click on the blue link with a yellow triangle stating, "There are # Pending VTrcks Shipments".
3. The Pending VTrcks Shipments will display. Click **Received** for each vaccine lot received.
4. A vaccine inventory screen will display with relevant fields pre-populated. Click **Create**.
5. The vaccine shipment will then be loaded in your inventory on the On-Hand screen.

Receiving a vaccine ***transfer*** in NMSIIS

Reminder: your site must have a completed COVID Redistribution Agreement to receive transferred vaccine

Follow these steps if another VFC location has transferred vaccine **to** your site:

1. Go to Inventory On-Hand, click on blue hyperlink



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2. Locate the vaccine and click on ***Received***



Please note: the transfer will not be complete until the **receiving** site follows the steps above

COVID-19 Vaccine Inventory Management and Reporting Requirements

Data Reporting Requirements to NMSIIS (New Mexico Statewide Immunization Information System)

Patient demographic and vaccine data is required to be reported to New Mexico's IIS (Immunization Information System, every 24 hours. Data can be reported in one of the following ways:

1. Manual data entry: Providers enter the patient and administered vaccine information directly into the IIS
2. Automated data exchange: Provider enters the patient and administered vaccine information into their Electronic Medical Record/Electronic Health Record and the data is then uploaded into the state's IIS.

For information on how to begin reporting to NMSIIS, please see our training and data exchange pages on the NMDOH website:

NMSIIS Training: https://www.nmhealth.org/about/phd/idb/imp/siis/train/
NMSIIS Data Exchange: https://www.nmhealth.org/about/phd/idb/imp/siis/dte/

For reporting COVID-19 Vaccine data to the IIS, please see the table below for a complete list of required data elements.

Required Vaccine Administration Data Elements

Vaccinating Facility and Health Care Provider Related
Administered at location/facility name/ID
Administered at location type
Administration address (Street - 2 lies, city, county, state, zip)
Sending organization
Vaccine administering provider suffix
VTrckS Provider PIN
Vaccine Related Data Elements
MVX (manufacturer)
CVX (product)
Lot number (UoU or UoS - UoU is preferred)
Vaccine expiration date
Vaccine NDC

Patient/Vaccine Recipient Related
Recipient name (First, Middle, Last)
Recipient date of birth
Recipient address (street, city, county, state, zip)
Recipient sex
Recipient race (patient identified/multiple options)
Recipient ethnicity
Vaccine administration site (on the body)
Vaccine route of administration
Recipient ID
Administration date
Vaccine series complete
Dose number

Optional Vaccine Administration Data Elements

Patient/Vaccine Recipient Related
Comorbidity status (Y/N)
Recipient missed vaccination appointment (Y/N)
Serology results
Vaccination Refusal (Y/N)

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Daily Reporting in VaccineFinder

The daily reporting of all inventory must be done in VaccineFinder
Additional information about VaccineFinder can be found in the Appendices

Within 24 hours of administering a dose of COVID-19 Vaccine and adjuvant (if applicable), Organization must record in the vaccine recipient's record and report required information to the relevant state, local, or territorial public health authority. Details of required information (collectively, Vaccine-Administration Data) for reporting can be found on CDC's website. Here are some important links:

- CDC COVID-19 Vaccination Provider Support, Data and Reporting: https://www.cdc.gov/vaccines/covid-19/vaccination-provider-support.html
- VaccineFinder COVID-19 Vaccine Provider Information website (includes video trainings): https://vaccinefinder.org/covid-provider-resources
    - Direct links to training videos:
        - Provider Setup and Inventory: https://vimeo.com/481324512
        - Jurisdiction Reporting Inventory: https://vimeo.com/481324268
- Onboarding emails will come from: vaccinefinder@auth.castlighthealth.com
- Technical support team: vaccinefinder@castlighthealth.com

Weekly Inventory Reconciliation

Organization must report the number of doses of COVID-19 Vaccine and adjuvants that were unused, spoiled, expired, or wasted as required by the relevant jurisdiction.

This is accomplished through a weekly reconciliation of your site's COVID-19 vaccine inventory in NMSIIS. The step-by-step instructions for completing a weekly reconciliation of your COVID-19 inventory follows.

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NEW MEXICO
DEPARTMENT OF
HEALTH

NEW MEXICO IMMUNIZATION INFORMATION SYSTEM (NMSIIS)

INVENTORY GUIDE
Reconciliation Process

AMERICAN LEGALNET, INC.
NM-OTERO-21-0275-A-000402

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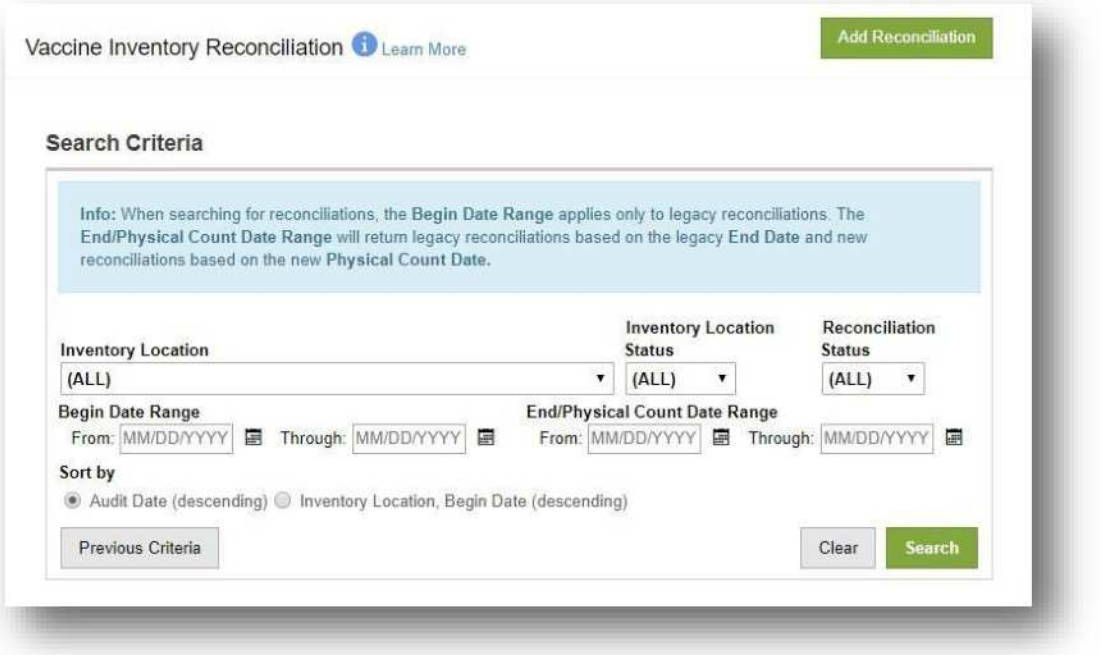
Overview

This document outlines the steps an end user must take to complete their reconciliations in NMSIIS.

Complete a Reconciliation

Reconciliation Search Page

- Navigate to the **Inventory Module**, select **Vaccines** and select **Reconciliation**.
- The *Vaccine Inventory Reconciliation Search Criteria* page will be displayed.
    - A blue info bar will be displayed above the Search Criteria with the following text:
        - Info: When searching for reconciliations, the **Begin Date Range** applies only to legacy reconciliations. The **End/Physical Count Date Range** will return legacy reconciliations based on the legacy **End Date** and new reconciliations based on the new **Physical Count Date**.



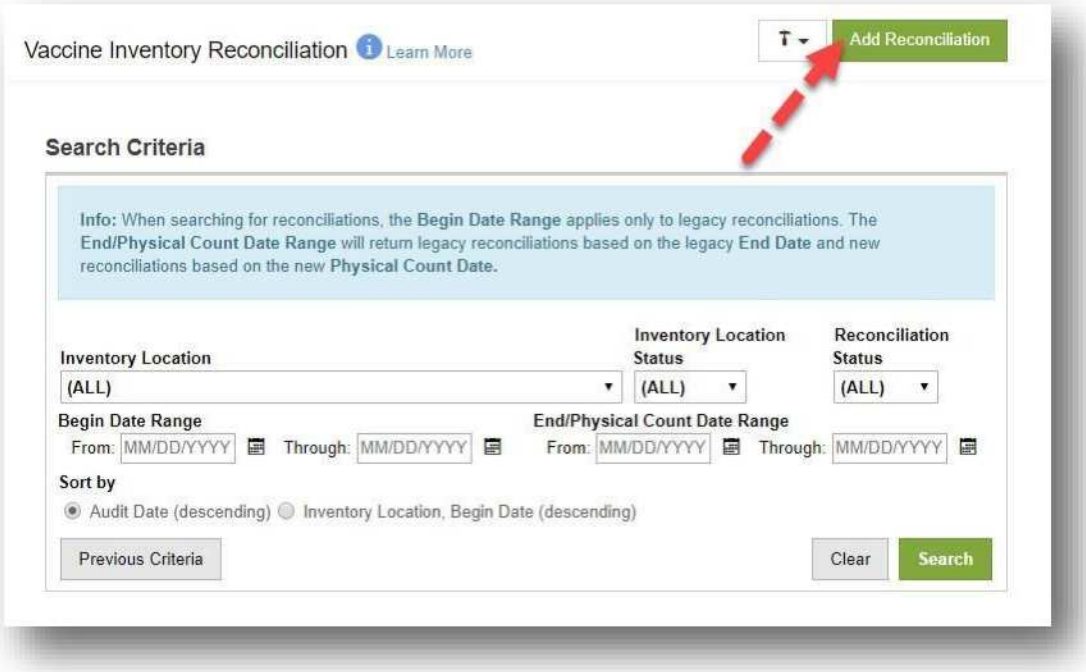
- Tip: To quickly view a list of all reconciliations, do not enter any **Date Range** criteria and select **Search.**

Reconciliation Create Page

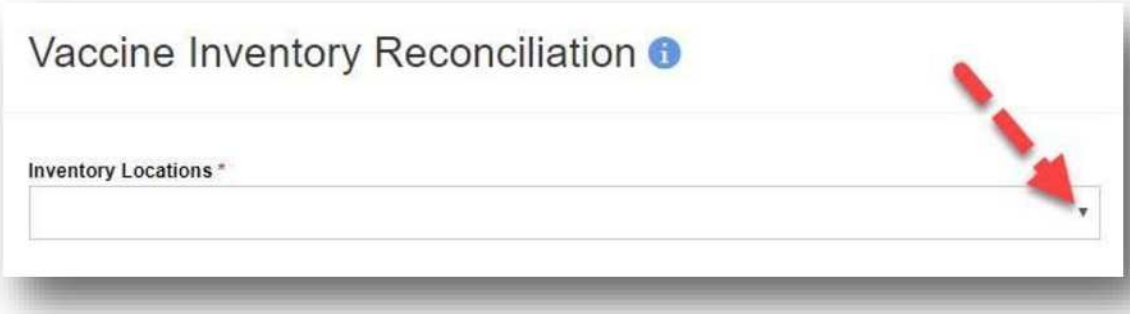
- Navigate to the **Inventory Module**, select **Vaccines**, and select **Reconciliation**.
- The *Vaccine Inventory Reconciliation Search Criteria* page will be displayed.

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- Select **Add Reconciliation**.



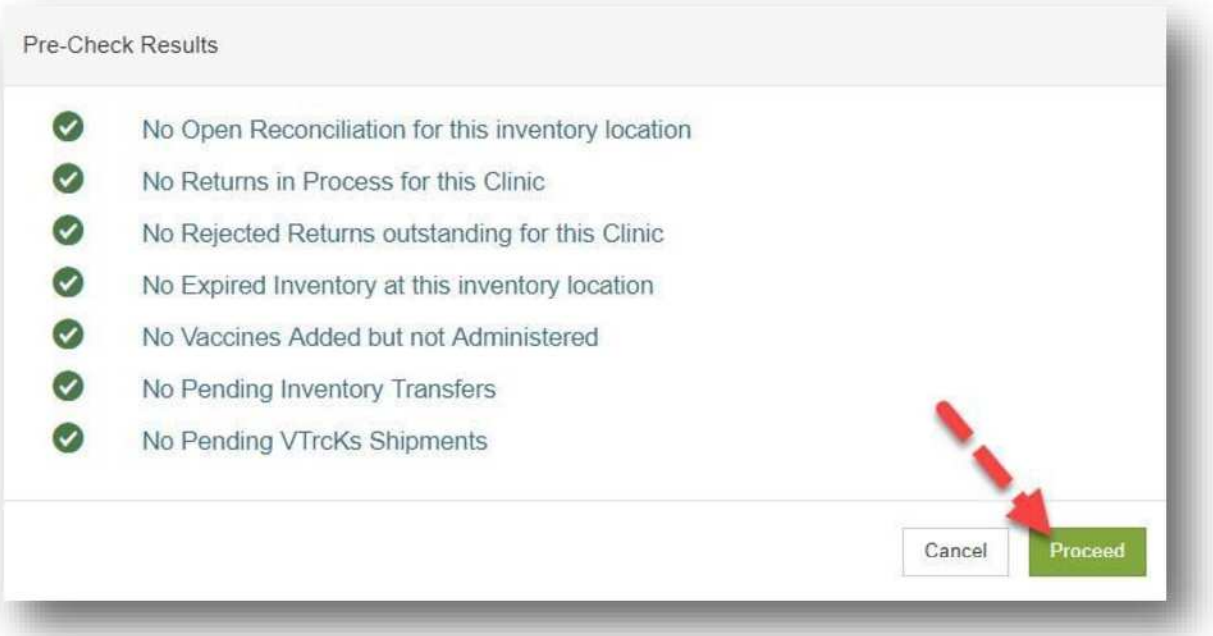
- The system will navigate to the *Vaccine Inventory Reconciliation* page to selectan Inventory Location.
- From the dropdown list, select the **Inventory Location** that will be reconciled.



- After selecting the **Inventory Location** that will be reconciled, the *Pre-Check Results* modal will appear.
- For the selected **Inventory Location**, the *Pre-Check Results* modal will display theresults from the following 7 pre-checks:
    - Open Reconciliations
    - Returns in Process
    - Outstanding Rejected Returns
    - Expired Inventory
    - Vaccines Added but not Administered

- Pending Inventory Transfers
- Pending VTrcKs Shipments

- Once all pre-checks pass (denoted by the green check mark icon), select **Proceed**.
  - Note: The option to select **Proceed** will not appear until all pre-checks have passed.



- Note: Pre-Check specifications are located in the Pre-Check Specifications section of this user guide.
- After selecting **Proceed**, the system will navigate to the next page, requiring entry of the following fields:
  - Description
    - Enter a description that best describes the reconciliation.
  - Authorized By
    - From the drop-down list, Select the name of the user that is completing the reconciliation.
    - Selecting the user icon next to the field will insert the currently logged in user's name.
  - Count Date
    - Enter the date that the count occurred.
    - The date cannot be a future date.
    - The date must be after the previous reconciliation count date.
  - Count Time
    - Input the time that the count occurred.
    - This cannot be a future time.

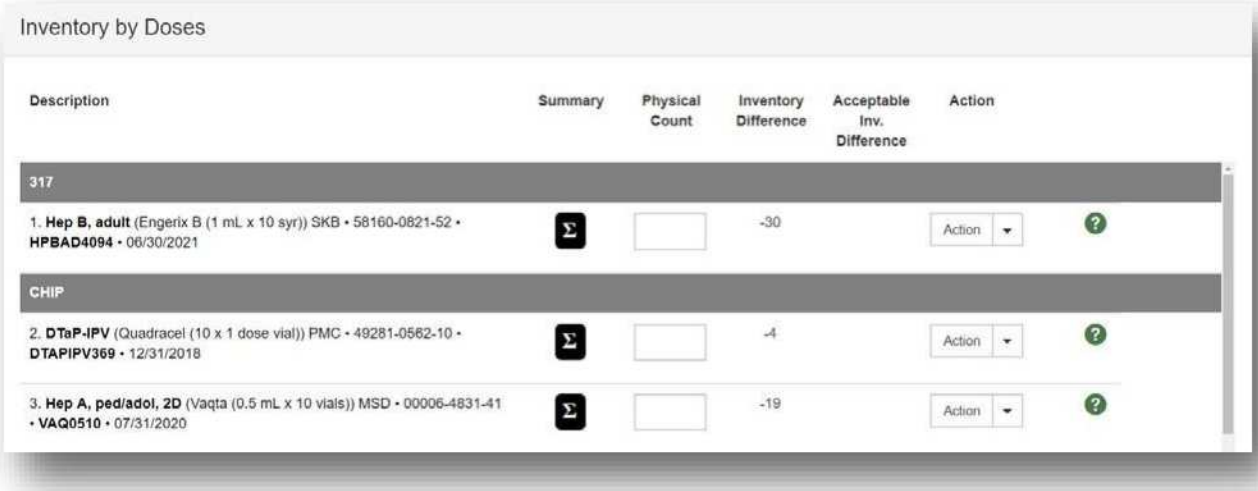
- After the required data has been entered, select **Create**, located in the upper right corner of the *Vaccine Inventory Reconciliation* page.



- After selecting **Create**, the *Inventory Reconciliation* will be created with a *Status* of OPEN.

Inventory by Doses Reconciliation Count

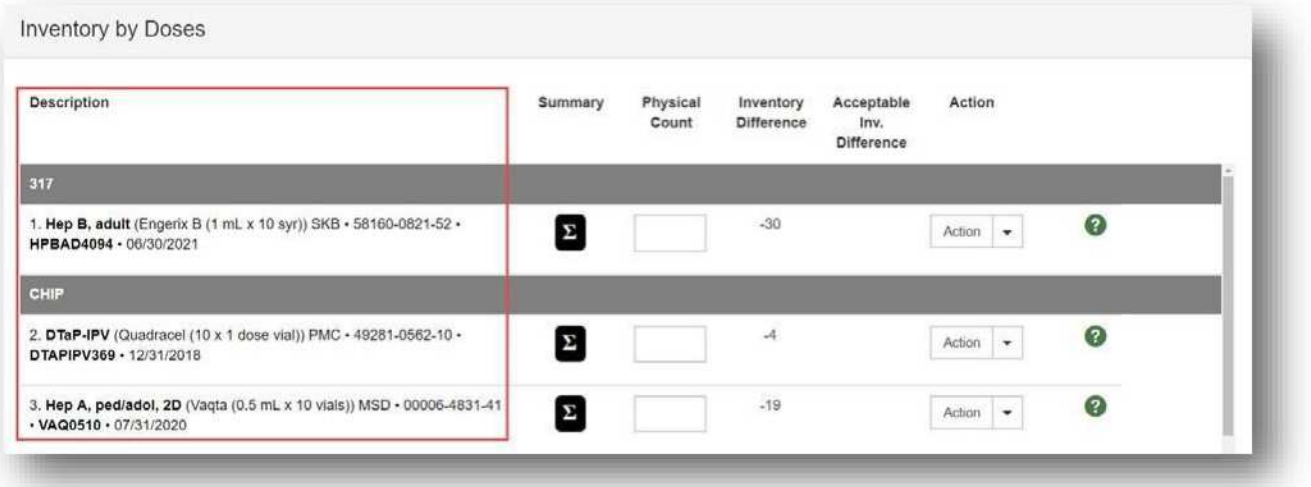
- Now that the inventory reconciliation has been created, the system will expand the *Vaccine Inventory Reconciliation* page to show the *Inventory by Doses* section of the page.



Description

- Each inventory item for the specified **Count Date** and **Time** period will be displayed with the following:
  - Assigned row number

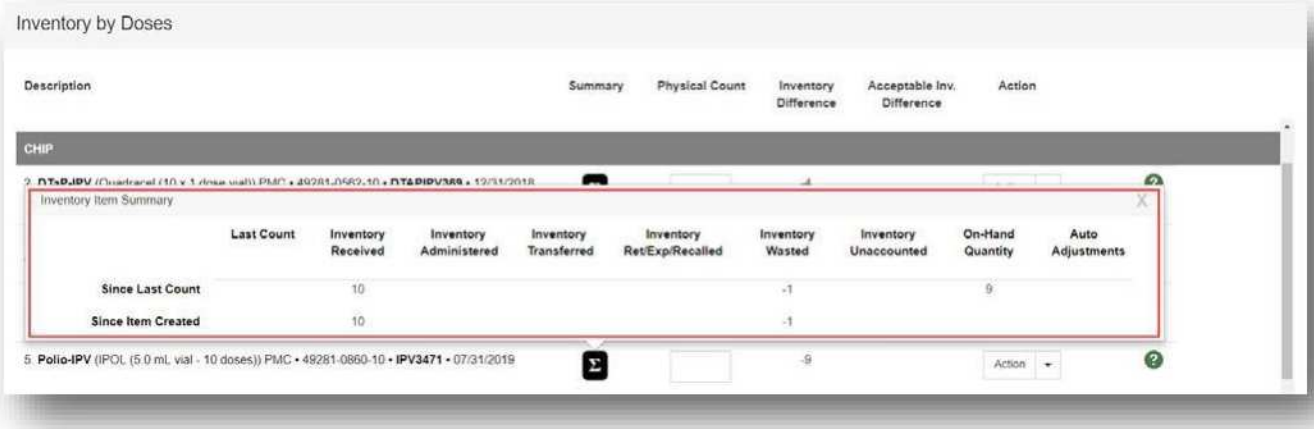
- Vaccine (Brand)
- Manufacturer
- NDC
- Lot Number
- Expiration Date



- Note: Gray sub header bars will separate listed inventory items by **Funding Source**.

Summary

- A summary icon (denoted by the black capital Greek sigma icon Σ) will display for each inventory item.

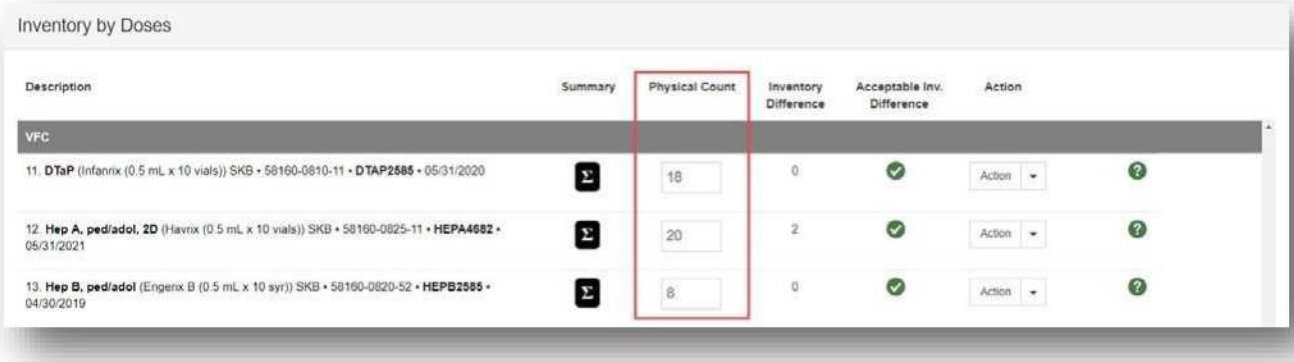


- Hover over the summary icon to reveal the *Inventory Item Summary* pop-upthat contains the following:
  - Last Count
  - Inventory Received

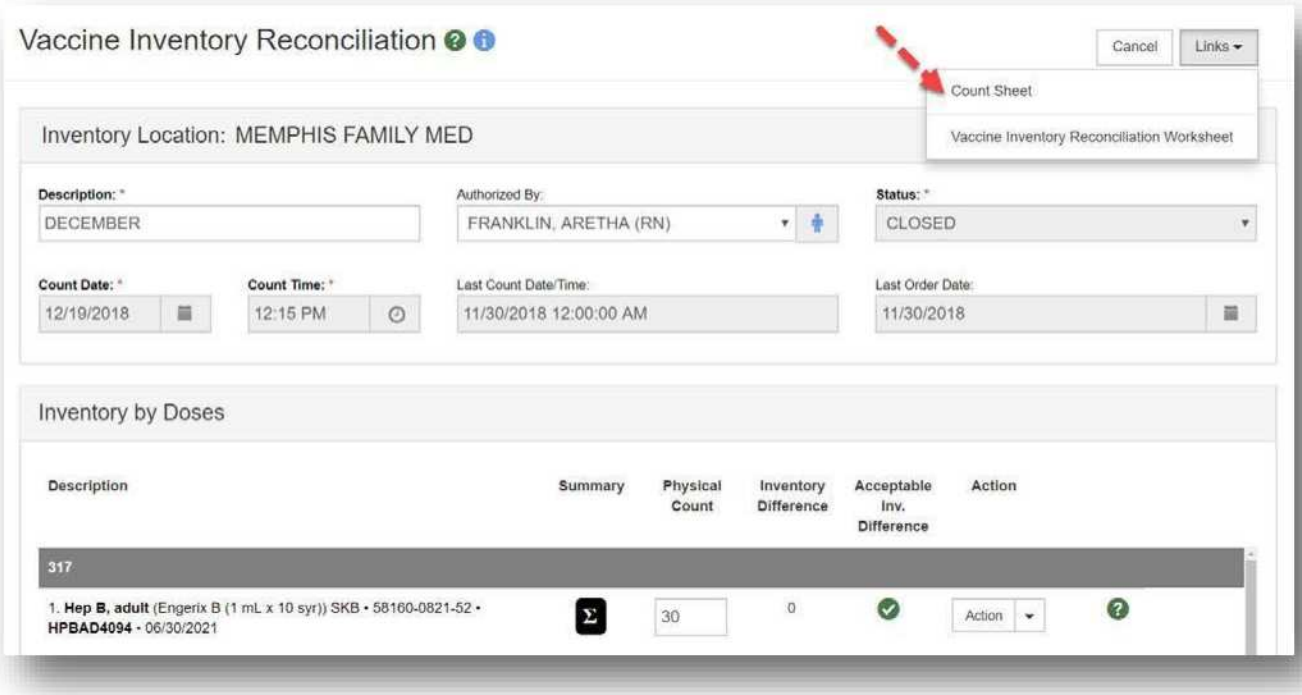
- Inventory Administered
- Inventory Transferred
- Inventory Returned, Expired, and/or Recalled
- Inventory Wasted
- Inventory Unaccounted For
- On-hand Quantity
- Auto Adjustments

Physical Count

- Input the number of physical doses counted for each inventory item listed in the open *Vaccine Inventory Location.*



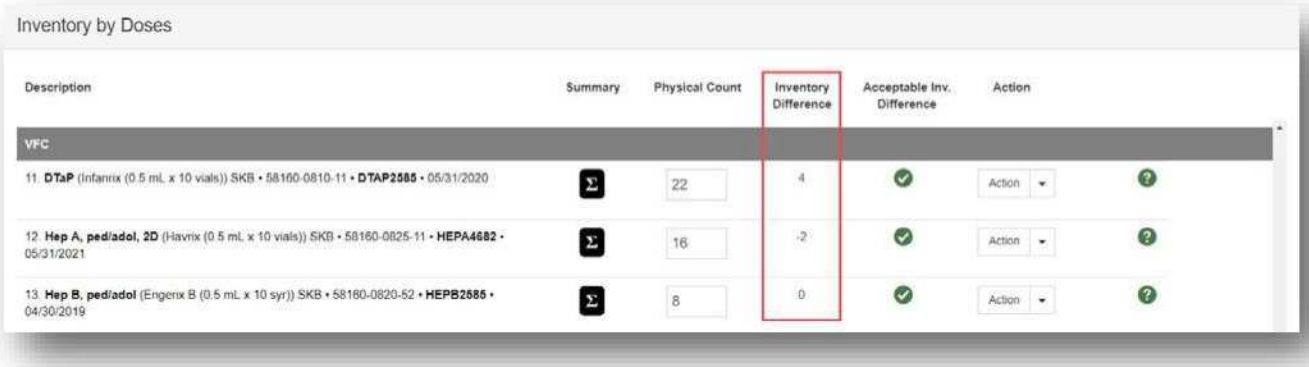
- The *Physical Count* cannot be a negative number; it must be a zero or a positive number.
- To assist with the *Physical Count*, the **Count Sheet** report is available.
  - Select the **Links** button located in the upper right corner of the *Vaccine Inventory Reconciliation* page.



- From the dropdown menu, select **Count Sheet**.
- The **Count Sheet** report will open in a pop-up window as a PDF.
- Print the **Count Sheet** and take it to the storage unit to documentthe physical counts.
- Input the documented physical counts in the *Physical Count* column ofthe reconciliation.

Inventory Difference

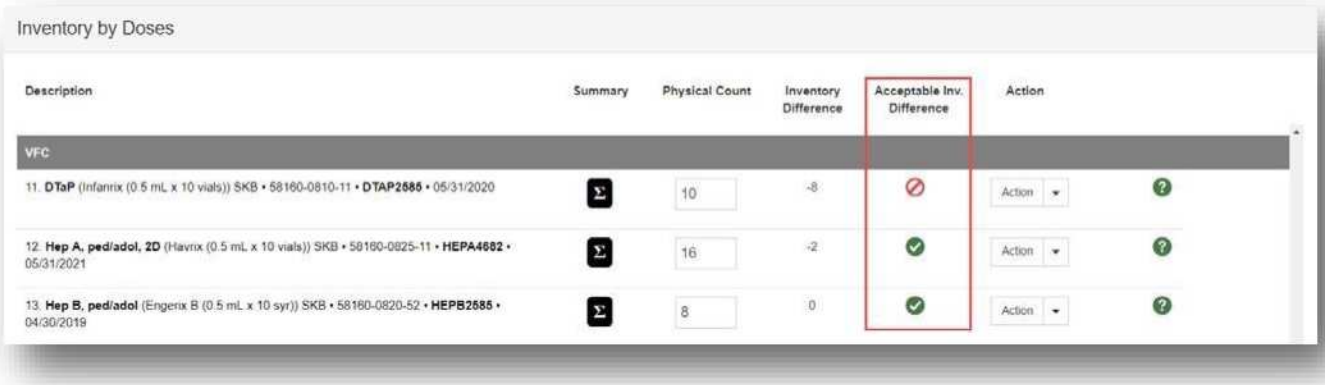
- Once a *Physical Count* has been entered and the **Update** button has been selected, the *Inventory Difference* (a read-only field) will calculate the difference between the number of starting on-hand doses, all transactions from the *Summary*, and the currently entered *Physical Count*.



- The *Inventory Difference* can be a negative or positive number.

Acceptable Inventory Difference

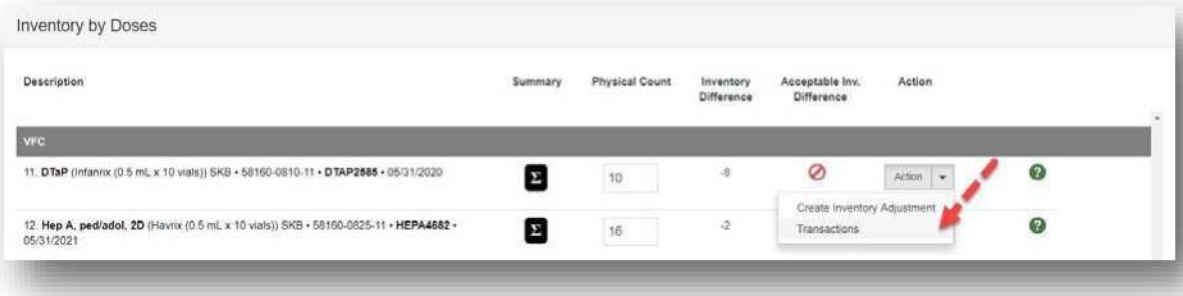
- If the *Inventory Difference* is under the allowable threshold set by the local jurisdiction, a green check mark icon will appear ( ), meaning the *Acceptable Inventory Difference* has been met.
- If the *Inventory Difference* is over the allowable threshold set by the local jurisdiction, a red stop icon will appear ( ), meaning the *Acceptable Inventory Difference* has not been met.



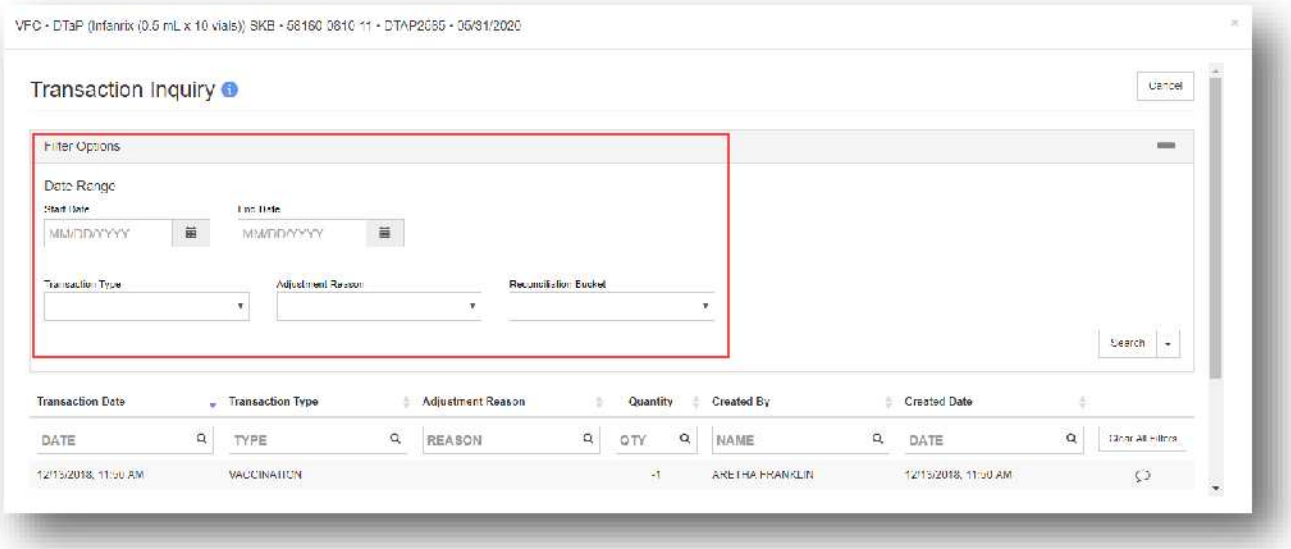
  - The *Acceptable Inventory Difference* has to be met prior to finalizing and closing the reconciliation. NMSIIS will not allow the reconciliation to be finalized and closed with an Inventory Difference on any lines.

To find the source of the Inventory Difference, review all transactions for the line in question:

- Select **Action** to complete the following task:
  - **Transactions** – To review the complete history of all transactions for the selected inventory item.
    - Select **Transactions**.

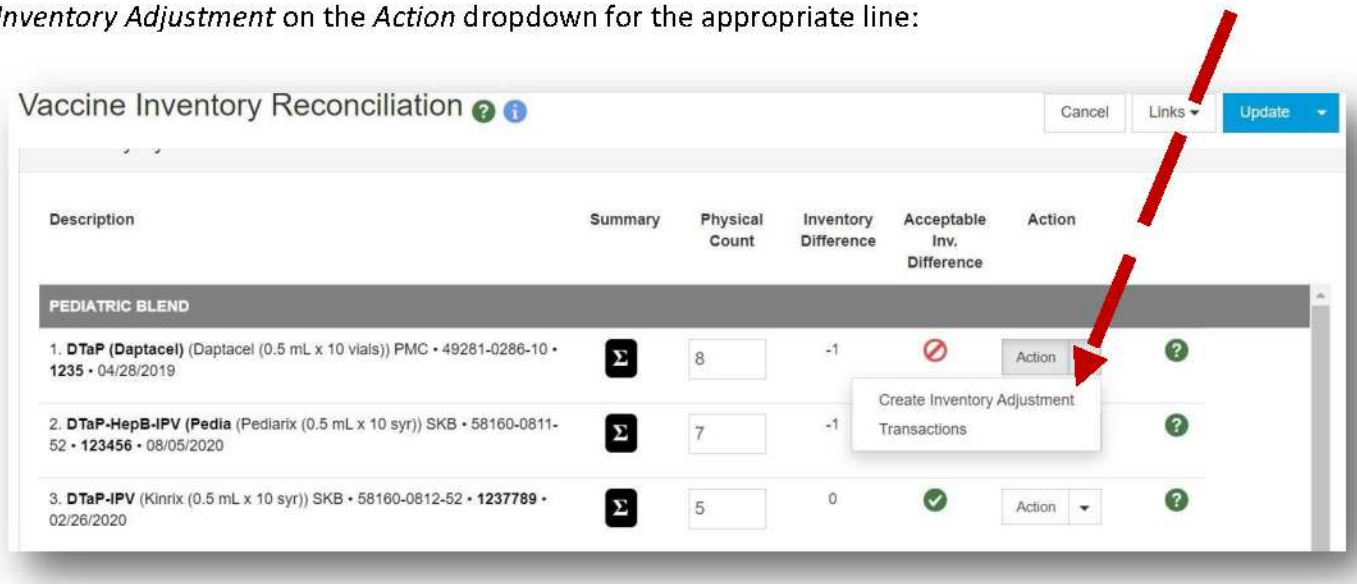


- A *Transaction Inquiry* modal will appear

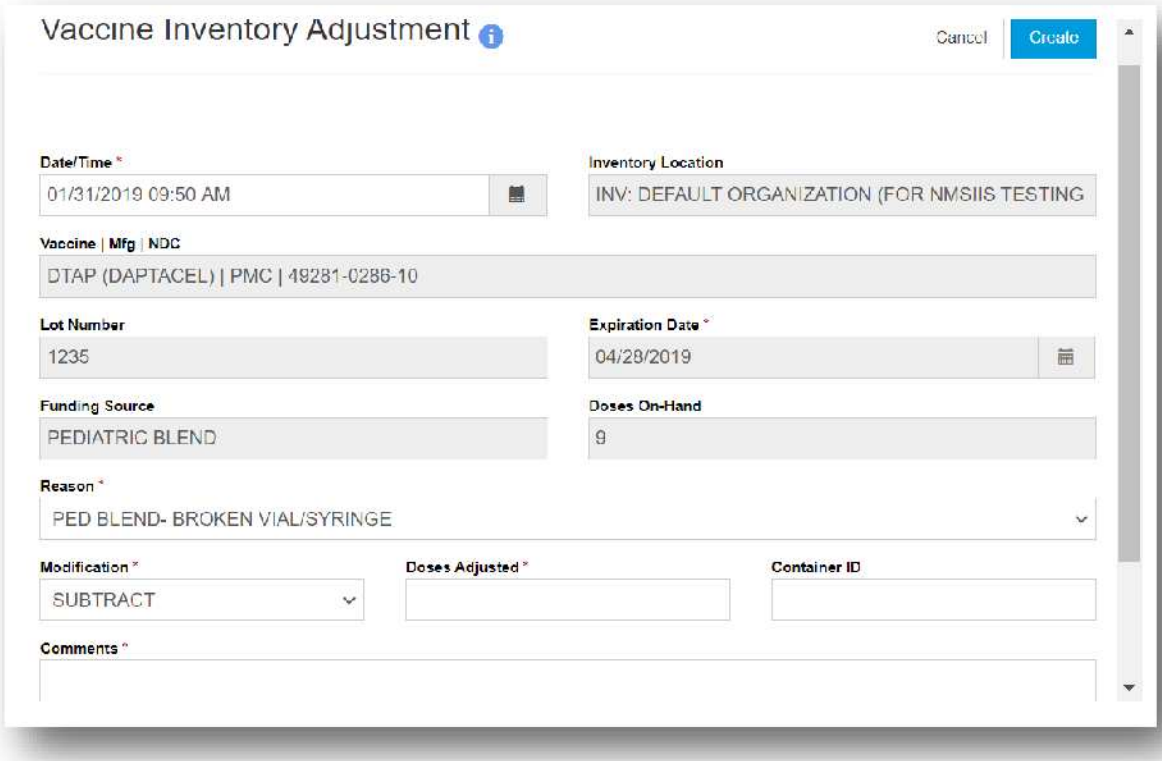


- The following filter options can be used to search, sort, and manage the transactions for the selected inventory item.
  - Start Date
  - End Date
  - Transaction Type
  - Adjustment Reason
  - Reconciliation Bucket
- **Transactions** can be used to determine and reconcile inaccuracies for the selected inventory item.

If it is found that the inventory difference is being caused by wastage that has not been entered, this can be entered without navigating away from the Vaccine Inventory Reconciliation screen. Select *Create Inventory Adjustment* on the *Action* dropdown for the appropriate line:



The Vaccine Inventory Adjustment screen will open:

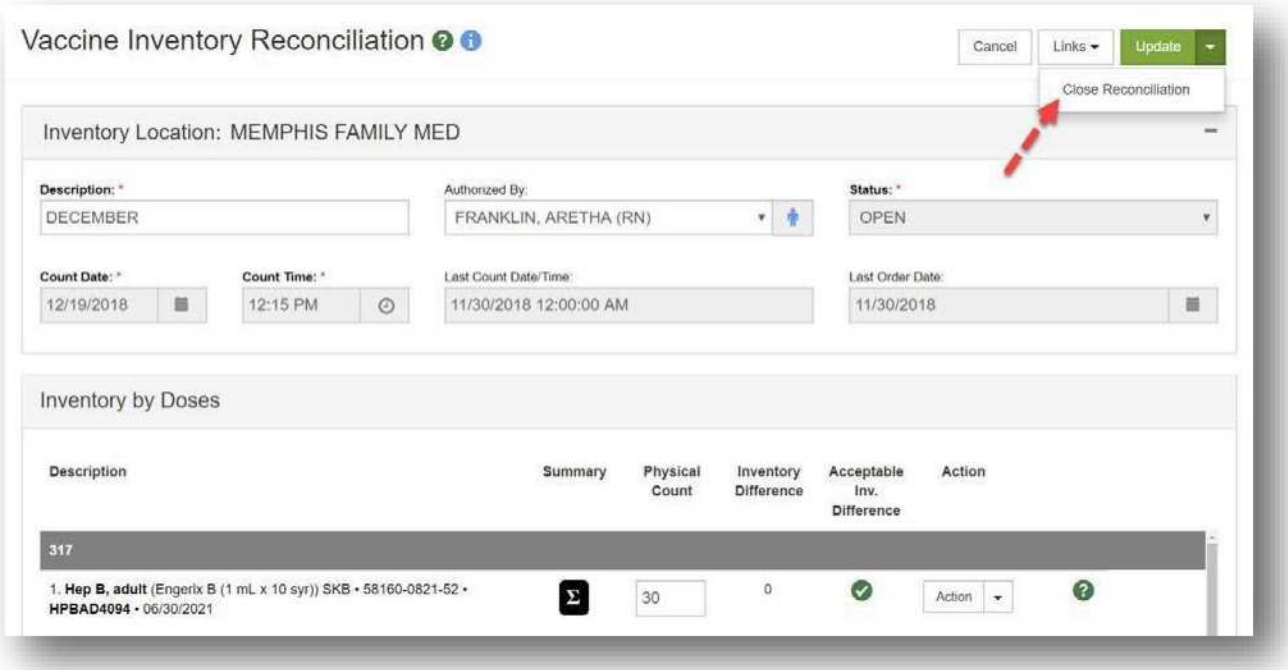


Here you will follow the guidance for correctly entering vaccine wastage found in the COVID Vaccine Provider Guide – see page 10

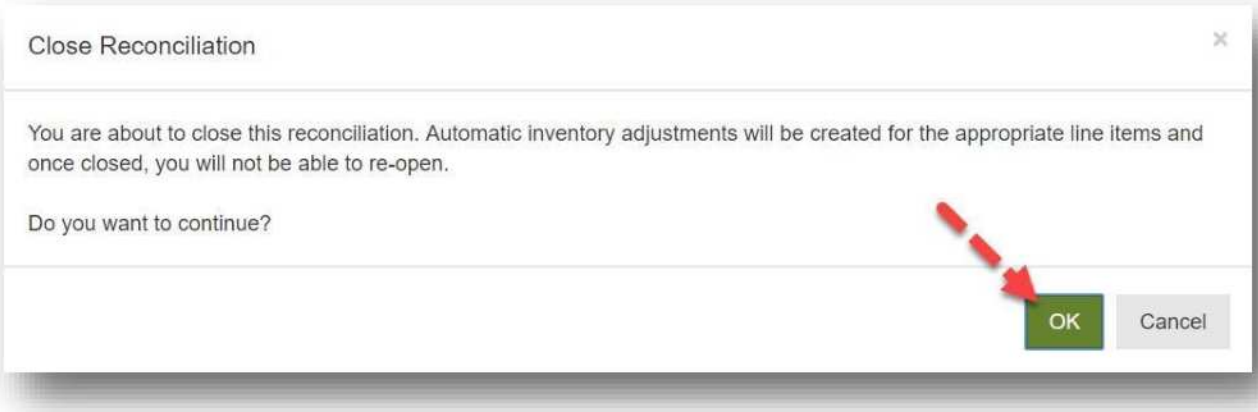
Close the Reconciliation

Please Note: Once a Reconciliation has been closed it cannot be re-opened.

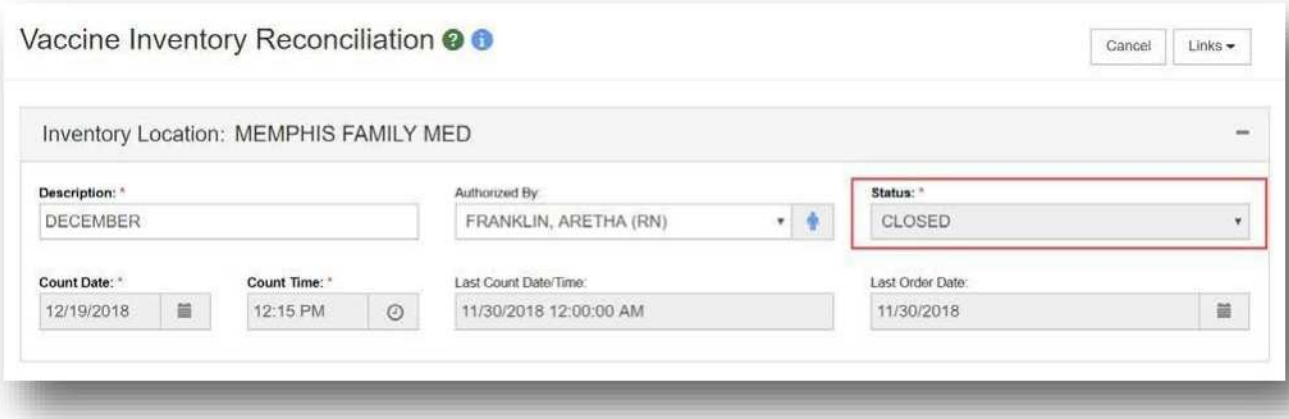
- Once all the inventory items have been accounted for andthere is are no remining inventory differences, the reconciliation is ready to be closed.
- To close the reconciliation, click the down arrow of the split action **Update** button in the upper right corner of the screen. Because Reconciliations cannot be re-opened to make corrections. Please ensure there are no unresolved inventory issues or questions and that the inventory physical count matches the exact quantities in the on-hand inventory before proceeding.
- If there are unresolvable issues or you are unsure that the Reconciliation is ready to be closed, Do Not proceed and contact the Immunization Help Desk. There is no negative impact to leaving a Reconciliation open while seeking issue resolution through help desk.



- Select **Close Reconciliation**.
  - The **Close Reconciliation** modal will appear with a confirmation message.
  - To go back and not proceed with closing the reconciliation, select **Cancel**.
  - To continue, select **OK**.



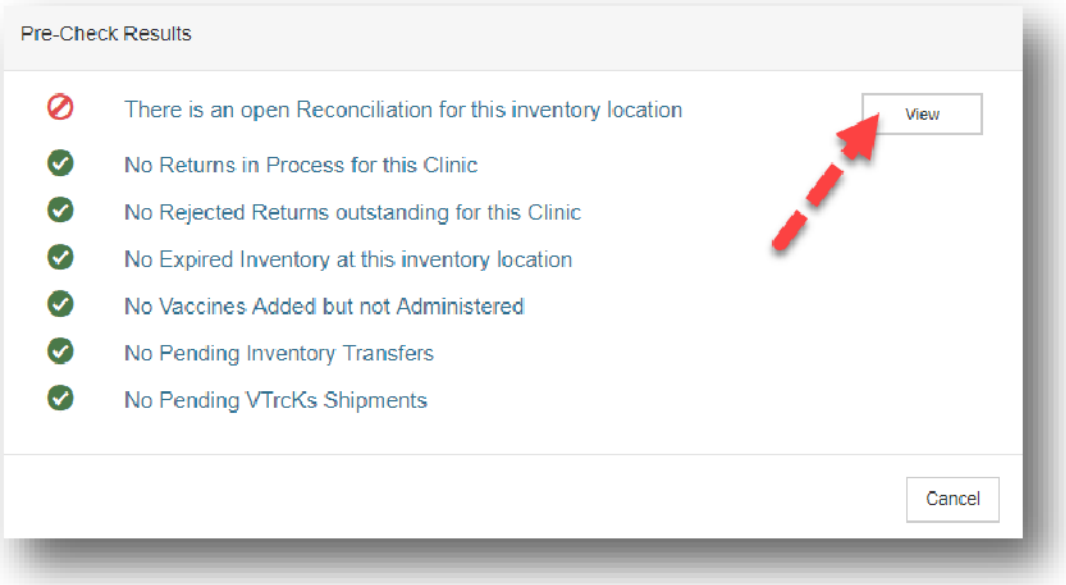
- After selecting **OK**, the system will return to the *Vaccine InventoryReconciliation* page and it will be noted that the **Status** of the reconciliation is **Closed**.



Pre-Check Specifications

Open Reconciliations

- If the selected **Inventory Location** does have an open reconciliation, a red stop icon (⊘) will display along with a **View** button.
  - Select the **View** button to navigate to the open reconciliation.

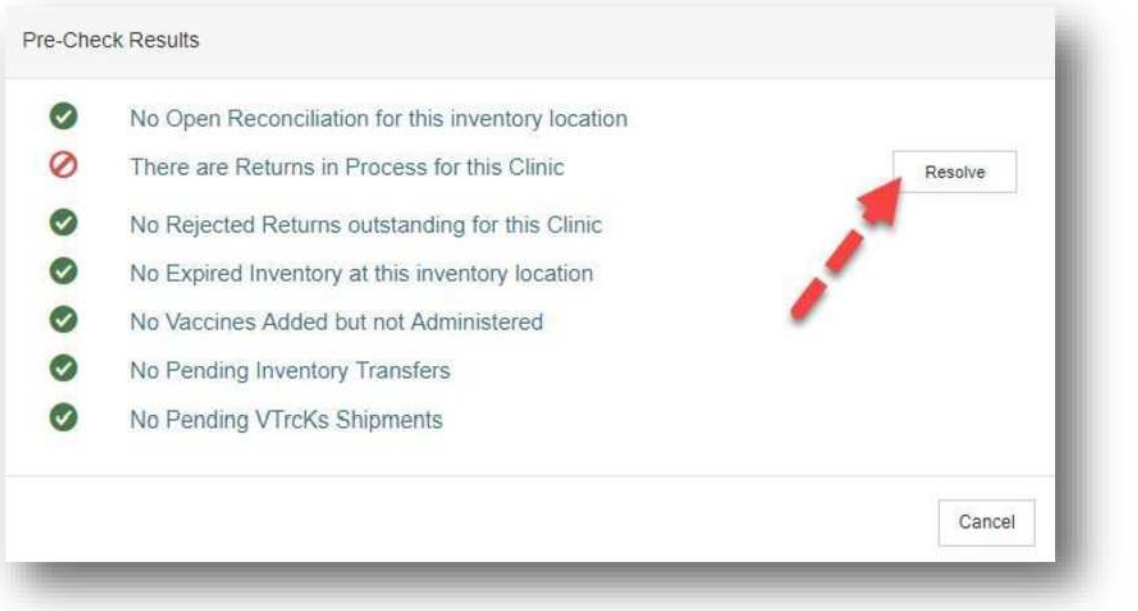


- All previously open reconciliations have to be updated and closed before proceeding with the creation of the new reconciliation.
- Selecting **Cancel** on the *Pre-Check Results* modal will navigate back to the *Vaccine Inventory Reconciliation* page.

- If the selected **Inventory Location** does not have an open reconciliation, a green check mark icon (✔) will display.

Returns in Process

- If the selected **Inventory Location** does have a return with a status of ***In Work***, a red stop icon (⊘) will display along with a **Resolve** button.
  - Select the **Resolve** button to navigate to the *Vaccine Returns* page.

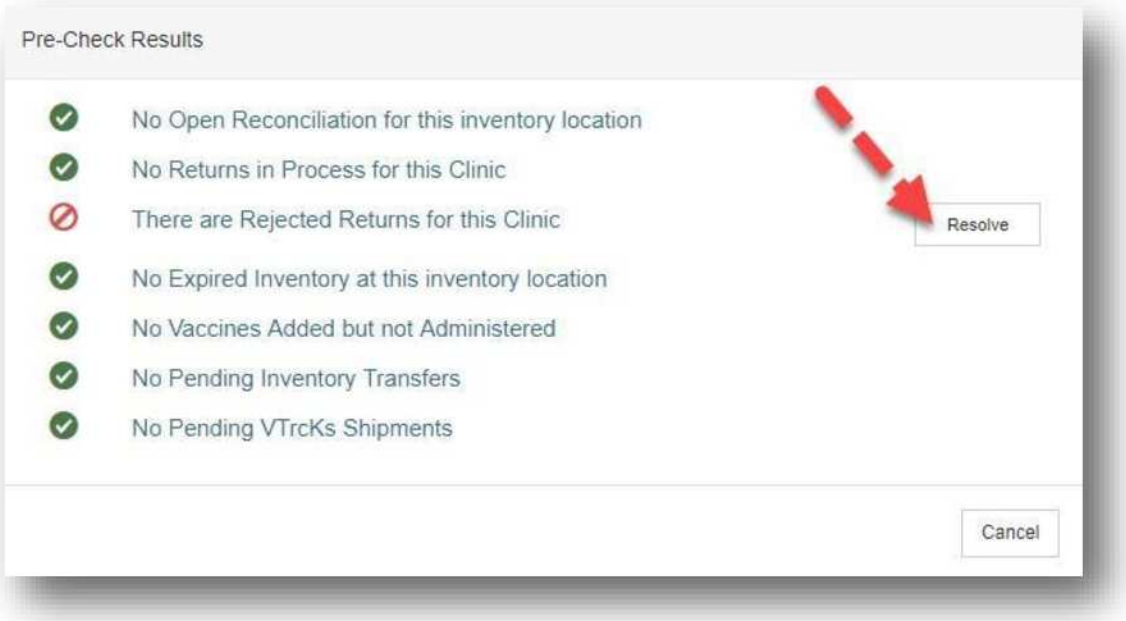


- All returns must be submitted before proceeding with the creation of the new reconciliation.
- Selecting **Cancel** on the *Pre-Check Results* modal will navigate back to the *Vaccine Inventory Reconciliation* page.

- If the selected **Inventory Location** does not have a return with a status of **In Work** or **Submitted for Approval**, a green check mark icon (✔) will display.

Outstanding Rejected Returns

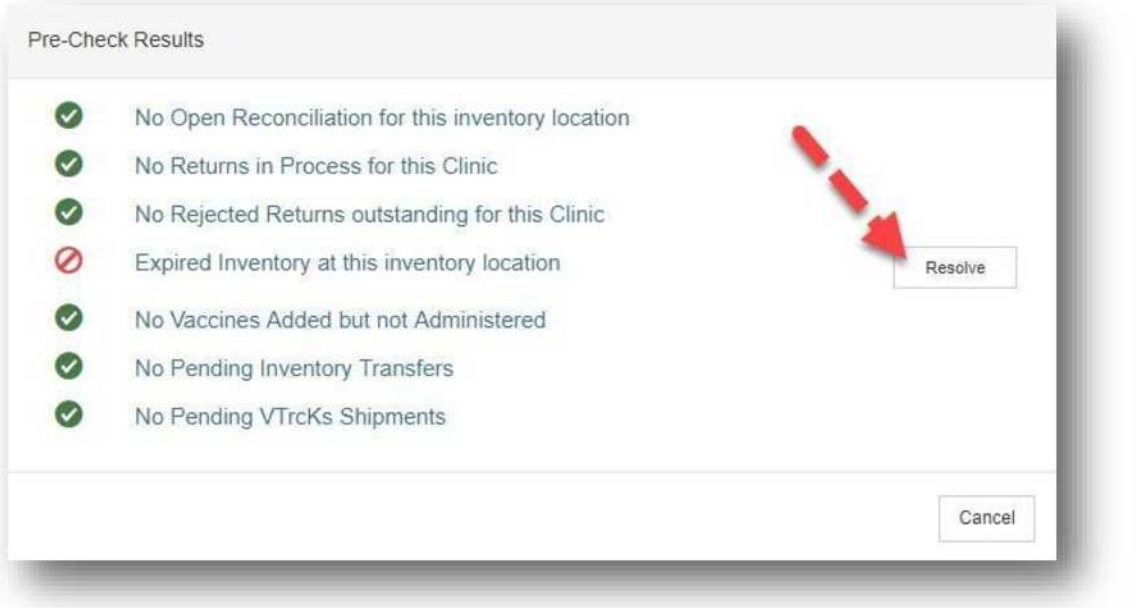
- If the selected **Inventory Location** does have a return with a status of **Rejected**, a red stop icon (⊘) will display along with a **Resolve** button.
    - Select the **Resolve** button to navigate to the *Vaccine Returns* page.



    - All rejected returns must be deleted before proceeding with the creation of the new reconciliation.
    - All IN-WORK returns must be either submitted to the Vaccines for Children Program or deleted prior to creating a new Reconciliation.
    - Selecting **Cancel** on the *Pre-Check Results* modal will navigate back to the *Vaccine Inventory Reconciliation* page.
- If the selected **Inventory Location** does not have a return with a status of **In-Work Rejected**, a green check mark icon (✓) will display.

Expired Inventory

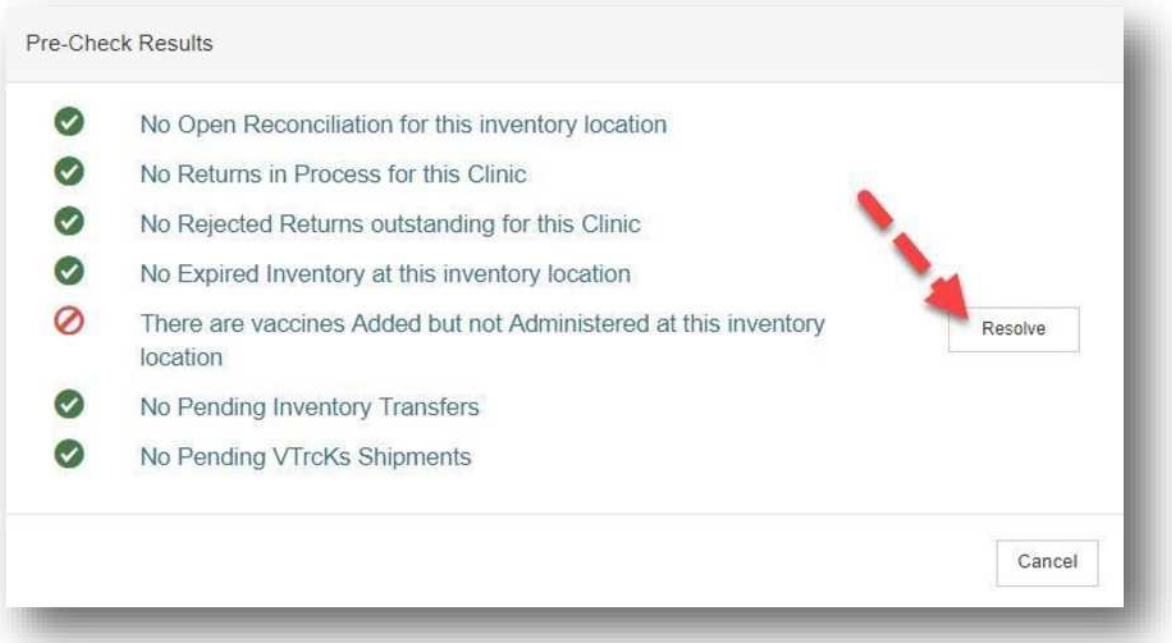
- If the selected **Inventory Location** does have inventory on hand with an expiration date prior to the current day's date, a red stop icon (⊘) will display along with a **Resolve** button.
- The expired inventory must be identified in the On-Hand Inventory screen – remember to change the Status drop-down to "Depleted/Expired" to display expired vaccines – before proceeding; when you have identified the expired vaccine
    - Select the **Resolve** button to navigate to the *Vaccine Returns* page.



    - Here you can create a return for the identified expired doses; all inventory with an expiration date prior to the current day's date must be resolved before proceeding with the creation of the new reconciliation.
    - Selecting **Cancel** on the *Pre-Check Results* modal will navigate back to the *Vaccine Inventory Reconciliation* page.
- If the selected **Inventory Location** does not have inventory on hand with an expiration date prior to the current day's date, a green check mark icon (✔) will display.

Vaccine Added but not Administered

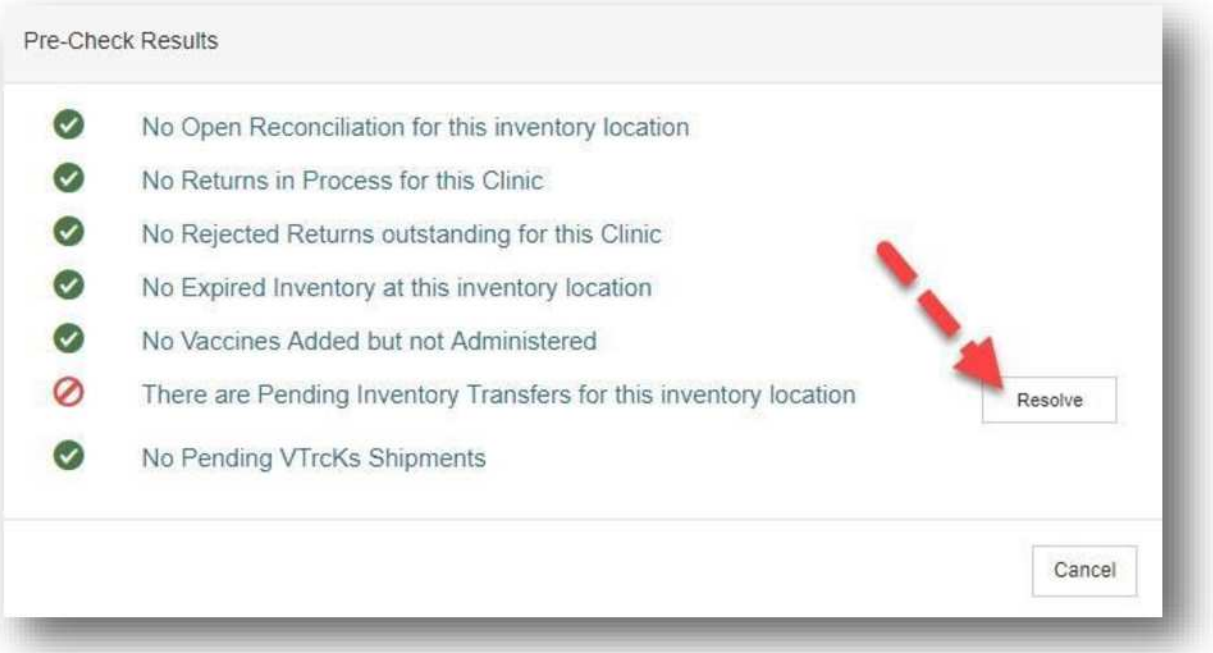
- If the selected **Inventory Location** does have vaccinations that have been added but not administered, a red stop icon ( ) will display along with a **Resolve** button.
    - Select the **Resolve** button to navigate to the *Vaccines Added but not Administered* report page.



    - All vaccines must be administered or deleted before proceeding with the creation of the new reconciliation.
    - Selecting **Cancel** on the *Pre-Check Results* modal will navigate back to the *Vaccine Inventory Reconciliation* page.
- If the selected **Inventory Location** does not have vaccinations that have been added but not administered, a green check mark icon ( ) will display.

Pending Inventory Transfers

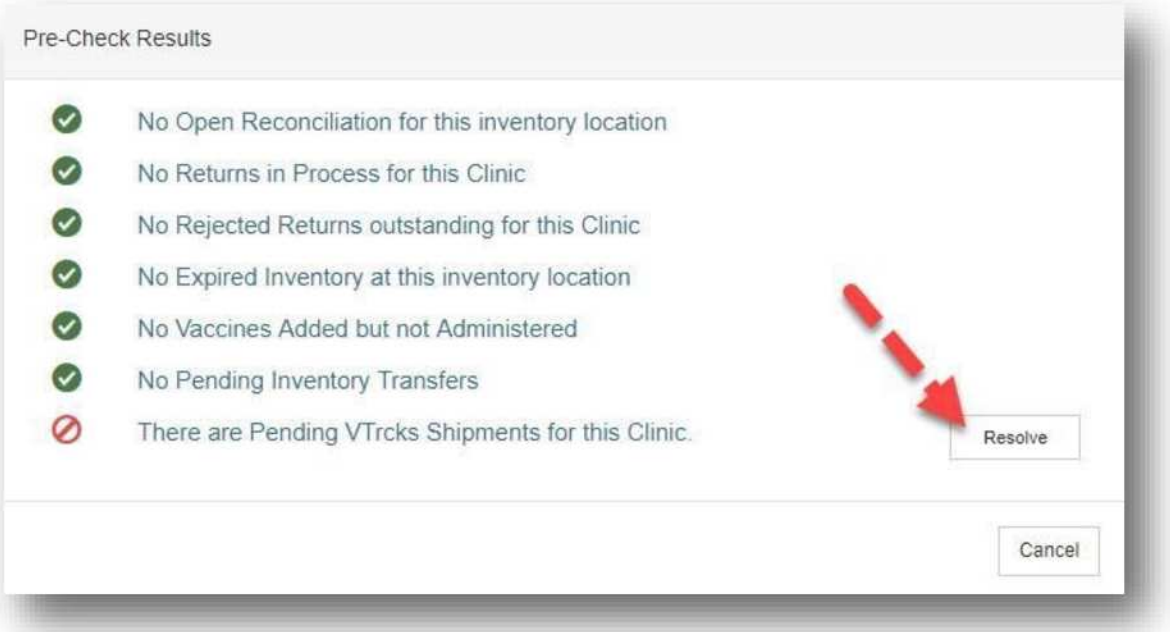
- If the selected **Inventory Location** does have pending incoming inventory transfers, a red stop icon (⊘) will display along with a **Resolve** button.
    - Select the **Resolve** button to navigate to the *Vaccine Inventory Transfer* page.



    - All incoming pending inventory transfers must be accepted before proceeding with the creation of the new reconciliation.
    - Selecting **Cancel** on the *Pre-Check Results* modal will navigate back to the *Vaccine Inventory Reconciliation* page.
- If the selected **Inventory Location** does not have pending incoming inventory transfers, a green check mark icon (✓) will display.

Pending VTrckS Shipments

- If the selected **Inventory Location** does have pending VTrckS shipments, a red stop icon (⊘) will display along with a **Resolve** button.
    - Select the **Resolve** button to navigate to the *Pending VTrckS* page.



    - All pending VTrckS shipments must be received or dismissed before proceeding with the creation of the new reconciliation.
    - Selecting **Cancel** on the *Pre-Check Results* modal will navigate back to the *Vaccine Inventory Reconciliation* page.
- If the selected **Inventory Location** does not have pending VTrcKs shipments, a green check mark icon (✔) will display.

Expired, ***Spoiled,*** or ***Wasted*** Vaccines

Expired Vaccines

As a general rule, the criteria for expired vaccine is the dose or doses are in the original vial, syringe, or other delivery device and beyond the expiration date on the package; this includes modified expiration date e.g., ultra-low temp vaccine transferred to refrigerated storage

It is expected that all COVID-19 Vaccine Providers will enter these returns ***weekly*** prior to starting their weekly COVID-19 vaccine reconciliation.

If your facility is a Vaccines for Children (VFC) or Adult Vaccine provider that also orders and returns pediatric and/or adult vaccines through NMSIIS, all returns for COVID-19 vaccines should be made in **separate transactions** from all other vaccine returns.

Spoiled Vaccines

As a general rule, the criteria for spoiled vaccine is the dose or doses are in the original vial, syringe, or other delivery device and have been exposed to conditions that compromised the viability of the vaccine (as determined by the vaccine manufacturer)

If have vaccine that may have been spoiled (e.g., due to a temperature excursion) you must submit a Troubleshooting Report (TSR) and contact the Vaccine Manufacturer for their determination of the vaccine's viability. You will follow the same return process you would for expired vaccine – including entering the appropriate *Return Reason* - for any doses that are deemed non-viable after the incident has been reviewed by the Vaccine Manufacturer and the Immunization Program has sent you a response to your completed TSR.

Wasted Vaccine

As a general rule, the criteria for wasted vaccine is the dose or doses are no longer in the original vial, syringe, or other delivery device and have been exposed to conditions that compromised the viability of the vaccine, e.g., drawn up but not administered, broken vial, etc.

If you are making an adjustment to your inventory for wastage, that process is different than the return process; please be sure to follow those instructions.

It is expected that all COVID-19 Vaccine Providers will keep an up-to-date vaccine wastage log and enter these inventory adjustments ***daily***.

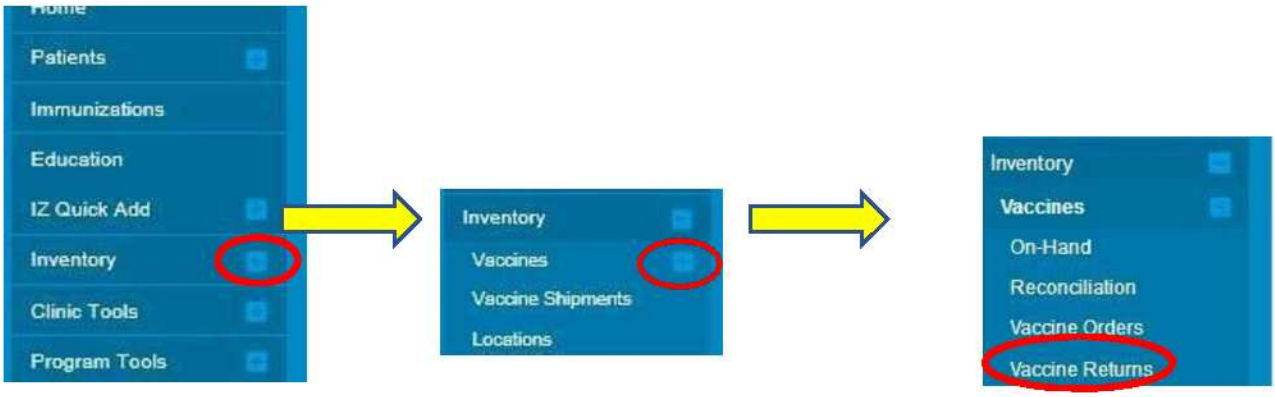
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Handling ***Expired***, ***Spoiled,*** or ***Wasted*** Vaccines in NMSIIS

Expired Vaccines

If your facility is a Vaccines for Children (VFC) or Adult Vaccine provider that also orders and returns pediatric and/or adult vaccines through NMSIIS, all returns for COVID-19 vaccines should be made in **separate transactions** from all other vaccine returns.

Step 1. In the blue panel to the left, navigate to the Inventory module and click the (+) sign to expand the menu. Then click the (+) sign next to "Vaccines" to expand that menu, then select "Vaccine Returns."



Step 2. In the upper right corner of the "Vaccine Returns" screen that displays, select "Add New Vaccine Return."



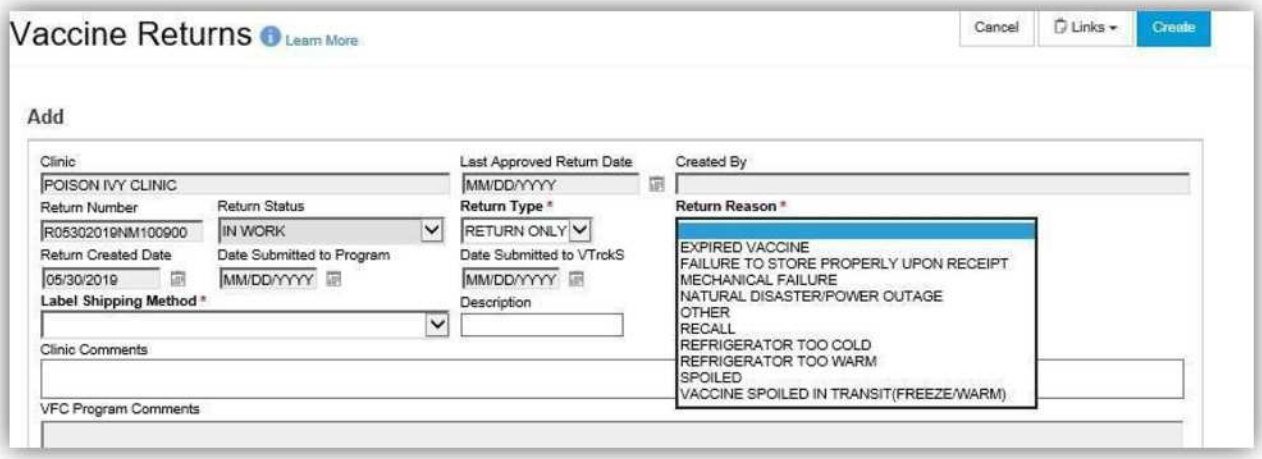
Step 3. Select the COVID-19 location for the clinic that is submitting the return and click **Next.**

Step 4. Once you have confirmed that the clinic information is correct, check the box next to "I have reviewed the above shipping information and I certify the information is correct" and click **Next**.

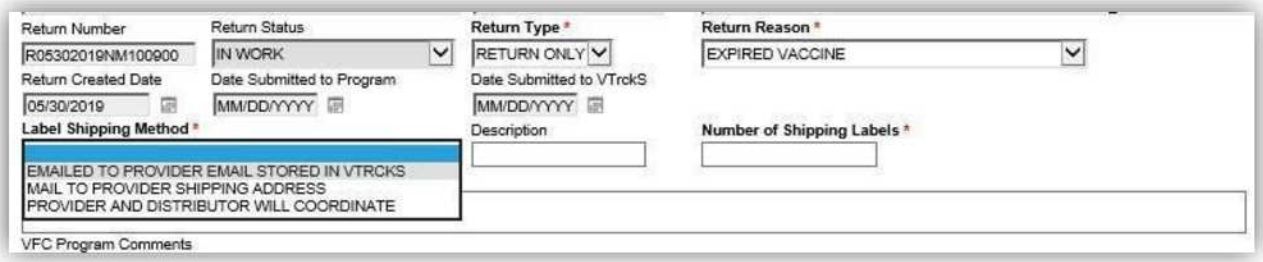
Step 5. The Vaccine Return screen is now displayed. Under Return Type, select **Return Only.**

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Step 6. Select the appropriate reason – most commonly **Expired Vaccine** - as the Return Reason in the drop-down menu.



Step 7. In the drop-down menu for "Label Shipping Method," select your preference (mail vs. email) for receiving shipping labels. In the "Number of Shipping Labels" box, enter the number of labels you will need to ship the vaccine return – usually 1 label for every 100 doses. The "Clinic Comments" text box is an optional but useful space to explain the need to return non-expired vaccine.



Step 8. To find the vaccine in your inventory, begin typing a name, NDC, funding source, or lot number for the vaccine that will be returned. Enter the number of doses to be returned. **Click Add Return.** Repeat this step for any additional vaccine lots to be returned.

Step 9. On the right side of the screen, click on the drop-down arrow next to **Update** and click on **Submit to VFC Program.** On the right side of the screen, click on **Links**. Then click on **Vaccine Return Details**. A *Vaccine Return Detail Report* will generate. Print 2 copies, one to keep in your files and one to place in the box with the returned vaccines. When you receive the return label, place it on the box of vaccines to be returned. Place a copy of the *Vaccine Return Detail Report* in the box with the vaccines to return.

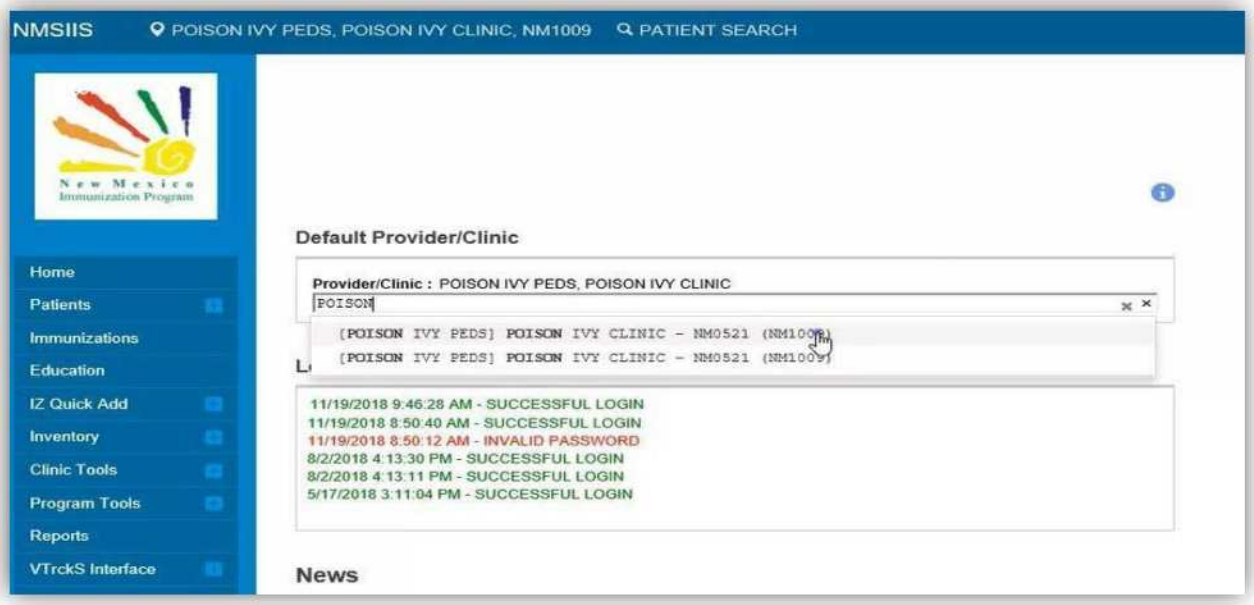
Spoiled Vaccines

If have vaccine that may have been spoiled (e.g., due to a temperature excursion) you must submit a Troubleshooting Report (TSR) and contact the Vaccine Manufacturer for their determination of the vaccine's viability. You will follow the same return process as above – including entering the appropriate *Return Reason* - for any doses that are deemed non-viable after the incident has been reviewed by the Vaccine Manufacturer and the Immunization Program has sent you a response to your completed TSR.

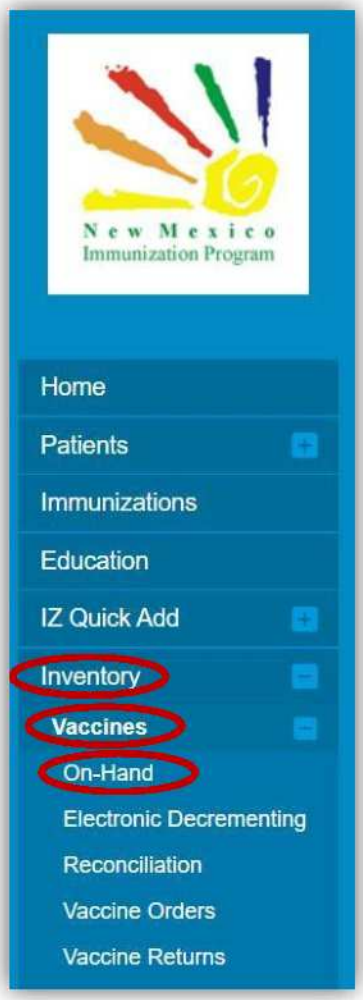
If you are making an adjustment to your inventory for wastage, that process is different, and those instructions begin on the next page.

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Wasted Vaccine



Before you begin make sure you click on the correct provider and clinic on the home screen



Next click *Inventory* to expand the menu
Click *Vaccines* to expand the menu
Click on *On-Hand* to navigate to the vaccine inventory on-hand

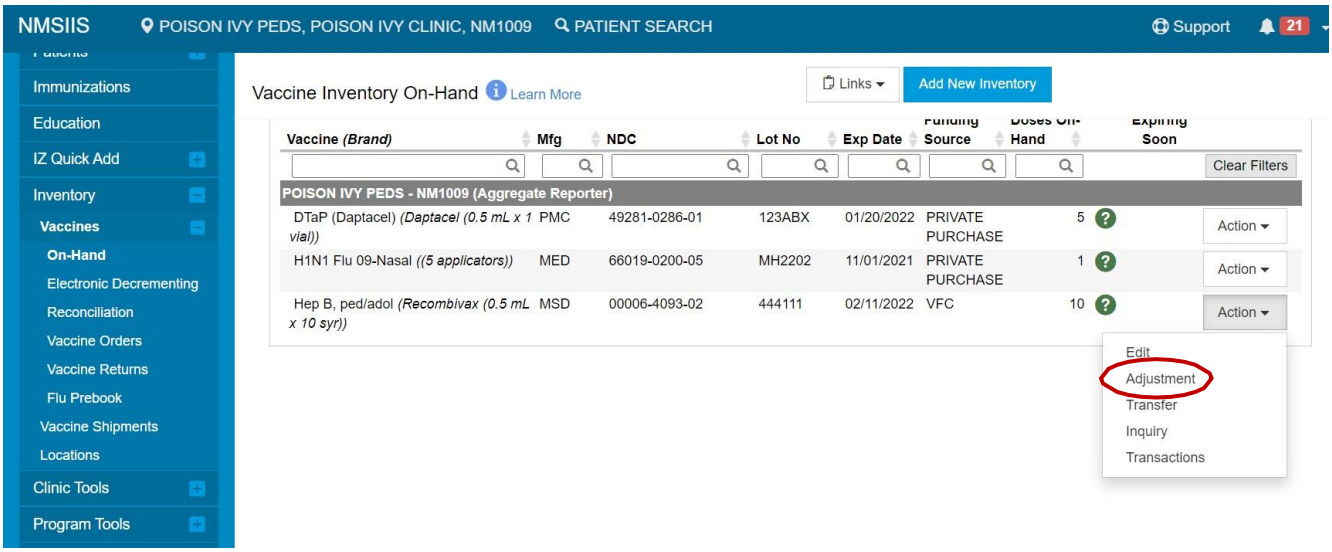
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Click on the *Inventory Location* for your clinic

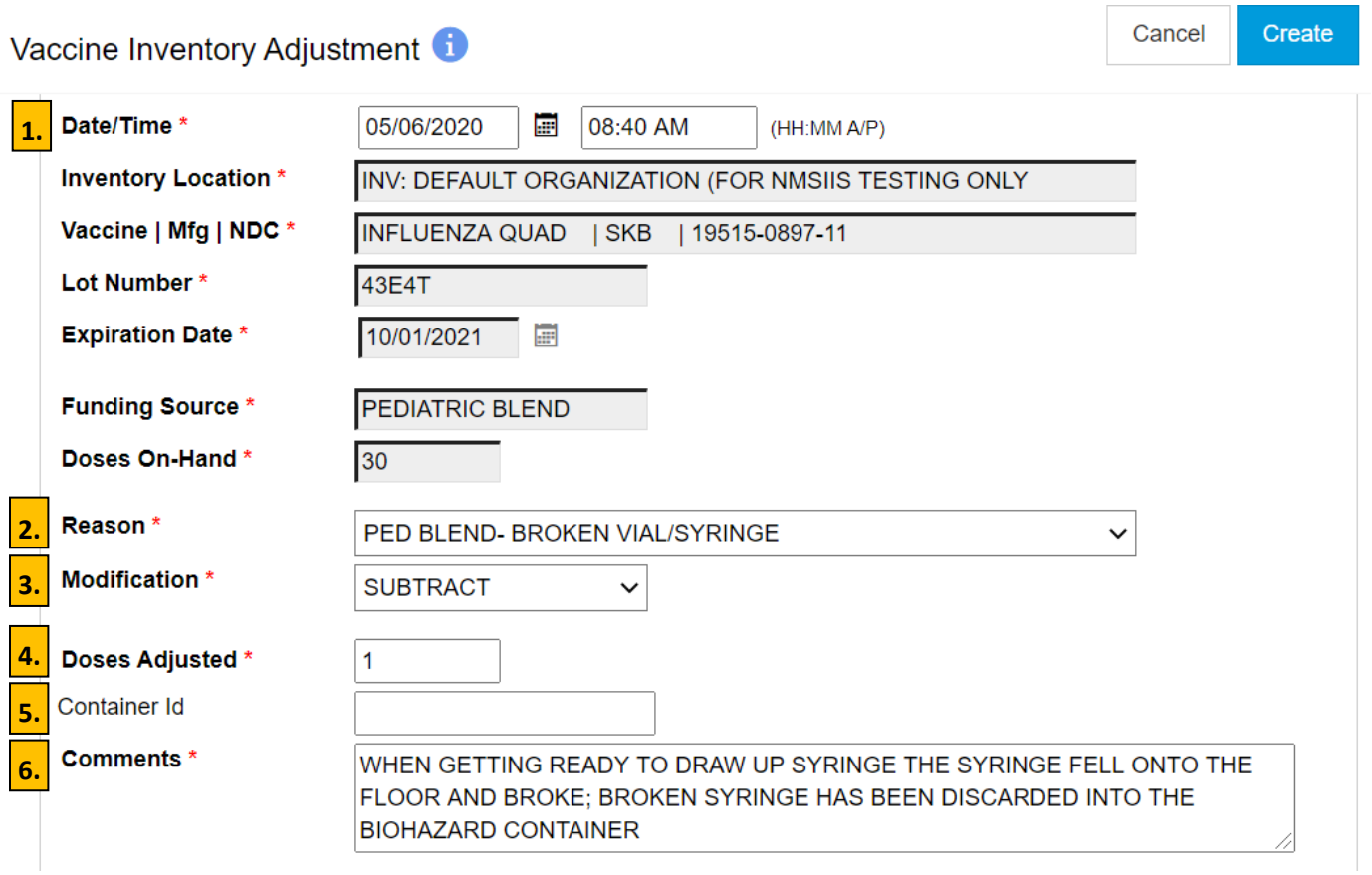
Locate the vaccine with the wasted dose or doses.

Then click on *Action* drop-down for the vaccine with wasted dose or doses

Next click on *Adjustment*



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1. Enter the *Date and time* for the adjustment

   Note: All adjustments must be entered prior to physical count for reconciliation. By doing all adjustments prior to physical count the adjustment will fall within your reconciliation time frame.

2. On the *Reason* drop-down the only reasons that should ever be chosen for VFC vaccines are any of the first three options reading "PED BLEND" for the wasted vaccine. *No other options should ever be used.*

   Note: The option ***Private Inventory*** is **only** for those providers who reconcile privately purchased Inventory.

3. Click on the drop-down for *Modification* and select *subtract*

4. Click on *Doses Adjusted* and type in the number of doses that were wasted

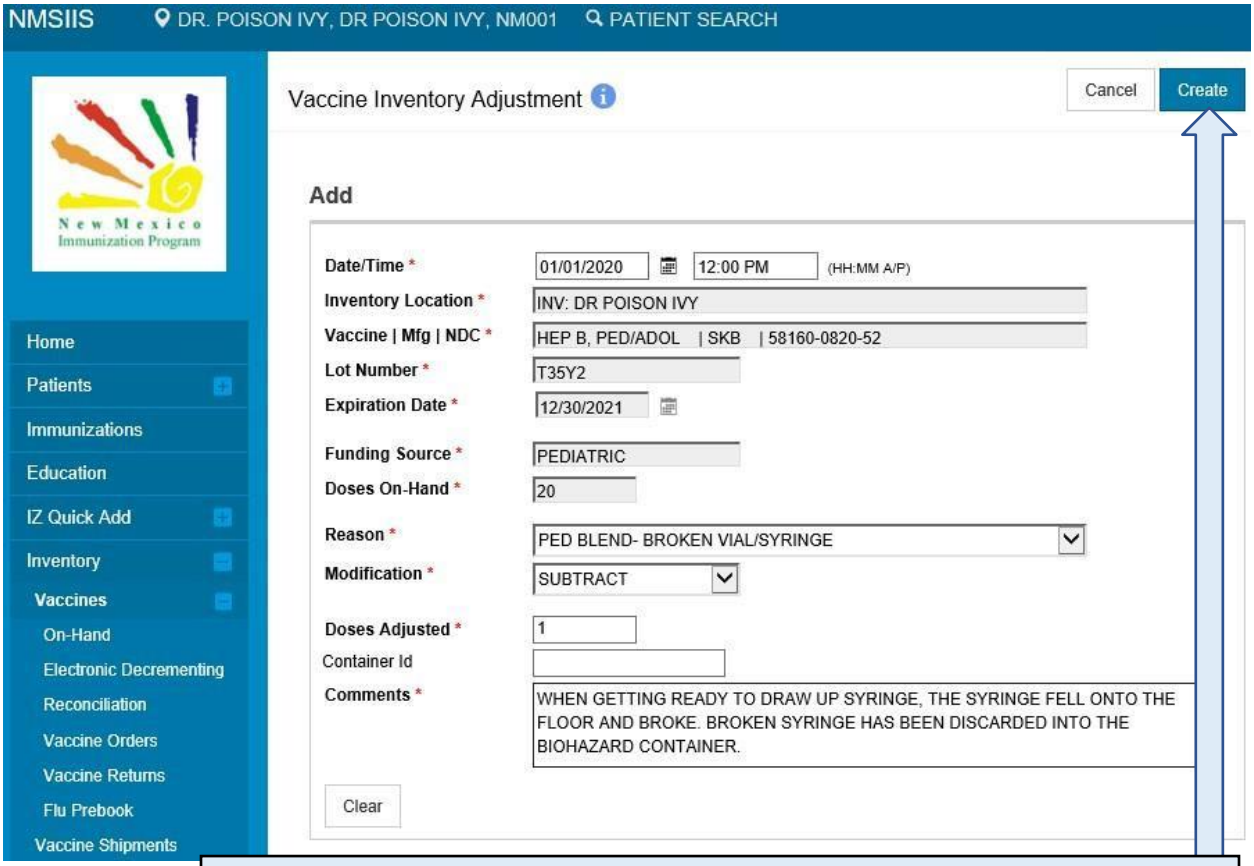
5. On your *Vaccine Inventory Adjustment* all the fields must be completed except for *Container ID – this field will be left blank*

6. Click in the *Comments* section and type in a detailed description of what happened to the dose or doses

   Note: The Comments Field is required and will accommodate up to 250 characters

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When all the fields have been completed for the Vaccine Inventory Adjustment (except for Container Id) click on *Create* at the top right-hand corner of your screen



Click on *Create* at the top right-hand corner of your NMSIIS screen

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Policies and Procedures

Eligibility and Billing

Providers administering COVID-19 vaccines are not permitted to bill the patient for the cost of the vaccine. Vaccine administration fees may be charged to patient's insurance; however, providers must not deny administration of COVID-19 vaccine to a patient based on inability to pay this fee.

Vaccine Orders and Inventory

Providers should order quantities of vaccine they can realistically expect to use and should monitor the expiration dates of vaccines in their inventory. If your inventory includes short-dated vaccine that you do not expect to use before it expires, please contact the Immunization Program; we will attempt to transfer the doses to another provider.

Providers are expected to monitor their vaccine supply and reconcile their inventory weekly. Instructions for completing a reconciliation can be found in NMSIIS under Reports -> New Mexico Forms and Documents -> COVID Reconciliation Process 2020

Vaccine Returns

Providers should use or transfer short-dated doses to avoid allowing vaccine to expire. However, if vaccine doses in your inventory are spoiled or expired, please submit a return and a Troubleshooting Report (TSR), if needed, in NMSIIS as soon as possible. This will generate an address label which you will use to return the expired doses. Instructions on submitting a return can be found above.

Storage and Handling

All staff working with publicly funded vaccines should be trained in vaccine storage and handling protocols. Refrigerators should maintain temperatures between 2° C and 8° C (36° F and 46° F); freezers should maintain temperatures between -50° C and -15° C (-58° F and +5° F) and -70° C to -90° C (-94° F and -130° F) for Ultra-cold storage. Every vaccine storage unit must have a functioning temperature monitoring device. The New Mexico Immunization Program **strongly** recommends the use of digital data loggers (DDLs) for monitoring unit temperatures. If a DDL is not used, unit temperatures should be recorded on a temperature log at least twice daily. If a temperature excursion occurs, providers must complete an Immunization Troubleshooting Record (TSR) and contact the New Mexico Immunization Program at covid.vaccines@state.nm.us for instructions.

Emergency Vaccine Management Plan

The New Mexico Immunization Program requires that providers develop and maintain an Emergency Vaccine Management Plan. A sample, fillable Plan can be found in NMSIIS Reports. The completed Plan should be stored near the vaccine storage unit(s) and updated as needed. Returning the completed plan to the Immunization Program is not required.

Temperature Excursion Protocol. In the event of an out-of-range temperature incident, consult and follow your Emergency Vaccine Management Plan. Complete the COVID-19 Immunization Troubleshooting Record form, following all instructions on page 1 of that form and return to the Immunization Program via email covid.vaccines@state.nm.us. **Do not** return, discard, or administer vaccines until the NM Immunization Program provides further instructions.

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Contact Us

Please direct questions and comments to:

New Mexico Immunization Program – COVID-19

Email: covid.vaccines@state.nm.us

NMSIIS Help Desk

1-833-882-6454

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Appendices

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Resources for COVID-19 Vaccine Providers

NMSIIS / Immunization Program Help Desk: 1-833-882-6454

COVID-19 Immunization Program email: covid.vaccines@state.nm.us

NMSIIS Reports: https://nmsiis.health.state.nm.us/webiznet_nm/WebCode/Reports/ListReports.aspx

Department of Health COVID-19 website: https://cv.nmhealth.org/

NMDOH COVID-19 hotline: 1-855-600-3453

CDC COVID-19 Vaccine Training for Healthcare Professionals: Information about the module can be found at: https://www.cdc.gov/vaccines/covid-19/vaccination-resources.html. The direct link to the module is at: https://www2.cdc.gov/vaccines/ed/covid19/.

New Mexico COVID-19 Updates: https://www.newmexico.gov/category/health/

Together New Mexico website: https://www.togethernm.org/

CDC COVID-19 website: https://www.cdc.gov/coronavirus/2019-ncov/index.html

VaccineFinder website: https://vaccinefinder.org/

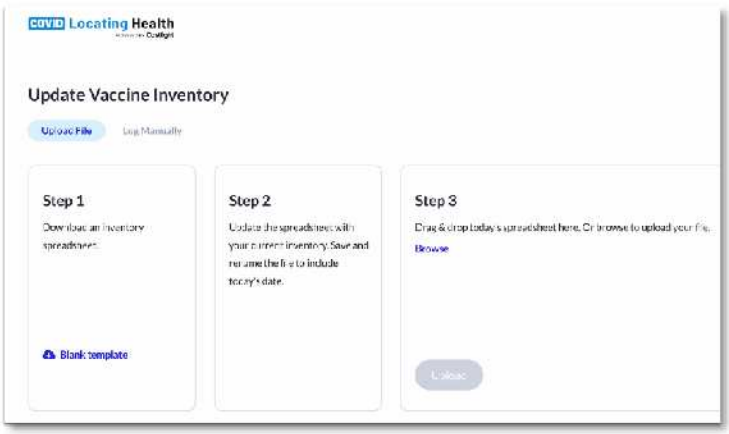
U.S. Food and Drug Administration: https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/emergency-use-authorization

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VaccineFinder COVID-19 Vaccine Supply Reporting and Finder System

What is VaccineFinder?

The VaccineFinder[1] platform helps the public find providers who offer select vaccines in communities across the United States. VaccineFinder's data are sourced via the provider platform, Locating Health.



The new COVID Locating Health Provider Platform will allow for easy reporting

VaccineFinder's role in the COVID-19 response

VaccineFinder and Locating Health provider platforms will serve two roles in the COVID-19 Vaccination Program.

1. **Inventory reporting** (required for all providers): COVID-19 vaccination providers will report on-hand COVID-19 vaccine inventory each day.
2. **Increase access to COVID-19 vaccines** (optional for providers): Once there is enough supply, COVID-19 vaccination providers may choose to make their location visible on VaccineFinder, making it easier for the public to find provider locations that have COVID-19 vaccine available. CDC will be directing the public to use VaccineFinder to find locations offering COVID-19 vaccine.

What providers need to know

The COVID-19 Vaccination Program Provider Agreement requires providers to report vaccine supply information as directed by CDC. Organizations or provider locations receiving COVID-19 vaccine should report supply information daily to VaccineFinder using the online COVID Locating Health Provider Portal. Vaccination providers can report manually via the secure COVID Locating Health Provider Portal; or via an automated secure data transfer directly to the COVID Locating Health Platform.

When COVID-19 vaccine supply is limited, data reported will only be used for vaccine inventory information—not as a resource to help the public find vaccine. When vaccine is more widely available, providers will be notified that the VaccineFinder public-facing website will be turned on to show COVID-19 vaccination locations. This will allow the public to know where they can go to receive a COVID-19 vaccination. Providers will be able to choose whether their location is displayed on the website. For participating providers, the VaccineFinder website will show the provider's location and contact information and will indicate that the provider has vaccine available. Specific inventory information will not be available to the public.

VaccineFinder onboarding and reporting

The process below outlines onboarding and reporting for VaccineFinder via the COVID Locating Heath Provider Portal. The reporting structure chosen by each organization must be maintained for the duration of the COVID-19 Vaccination Program.

1. COVID-19 vaccination providers must be registered in CDC's Vaccine Tracking System (VTrckS). Providers registered in VTrckS will receive an email from the COVID Locating Health Provider Portal with instructions for completing the enrollment process. This email will be sent to the provider organization's email address submitted in the provider enrollment form.
2. Organizations will determine whether they will report daily on-hand inventory on behalf of all their provider locations (e.g., a clinic headquarters office reporting on behalf of satellite clinics), or whether individual provider locations are responsible for reporting this information. Once a determination is made, it must be maintained for the duration of the COVID-19 Vaccination Program.

[1] VaccineFinder (www.vaccinefinder.org) is maintained by HealthMap (https://healthmap.org) in partnership with CDC and Castlight Health.

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- Provider locations designated as inventory reporting entities by their organizations will receive instructions for completing the COVID Locating Health Provider Portal enrollment process.

3. Organizations enrolled in the COVID Locating Health Provider Portal can view their approved provider location details and update inventory within the portal. Provider locations identified as inventory reporting entities will enroll to access their COVID Locating Health Provider Portal account and report daily COVID-19 vaccine inventory.
4. Additional details on steps for onboarding will be available on November 16, 2020.

Existing VaccineFinder accounts: What if I already report data for routine vaccines via my existing Locating Health account? Can I just use that account?

All COVID-19 vaccination providers will need to create a new account in the COVID Locating Health Provider Portal specifically for COVID-19 vaccine information.

- There will initially be two Locating Health Provider Portals (plans are in place to integrate these provider portals into one platform in the coming months):
  - **Locating Health Provider Portal** for reporting seasonal and routine vaccine availability
  - **COVID Locating Health Provider Portal** for required daily reporting of on-hand COVID-19 vaccine inventory quantities
- **If you are reporting manually**:
  - Organizations will continue to access the existing Locating Health Provider Portal to update availability of influenza and other routine vaccines and medications.
  - Organizations will log into the new COVID Locating Health Provider Portal to submit daily COVID-19 vaccine inventory reports for each participating provider location (online form or batch upload).
- **If you are using automated reporting**:
  - Organizations will continue to send data files to VaccineFinder to update availability of influenza vaccines and routine adult and child vaccines and medications at their provider locations.
  - For COVID-19 reporting, organizations will add COVID-19 vaccination providers and COVID-19 vaccine quantities to their existing data file and send to VaccineFinder via the usual process.

How the public uses VaccineFinder

VaccineFinder's goal is to make it easy for people to find a nearby location where they can be vaccinated. For 11 years, the VaccineFinder website has helped people find clinics that offer seasonal influenza and routine adult and child vaccinations. Once COVID-19 vaccines are widely available, VaccineFinder will help people find locations where they can receive COVID-19 vaccine.At the website, a person may enter their ZIP code and search for a provider that has a specific vaccine in their area. VaccineFinder displays mapped results of locations and vaccine availability.

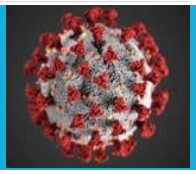
***To register your location in VaccineFinder**:*

For COVID-19 vaccination, you must coordinate with your organization or jurisdiction's immunization program.

For routine vaccinations, register at https://locating.health/register.

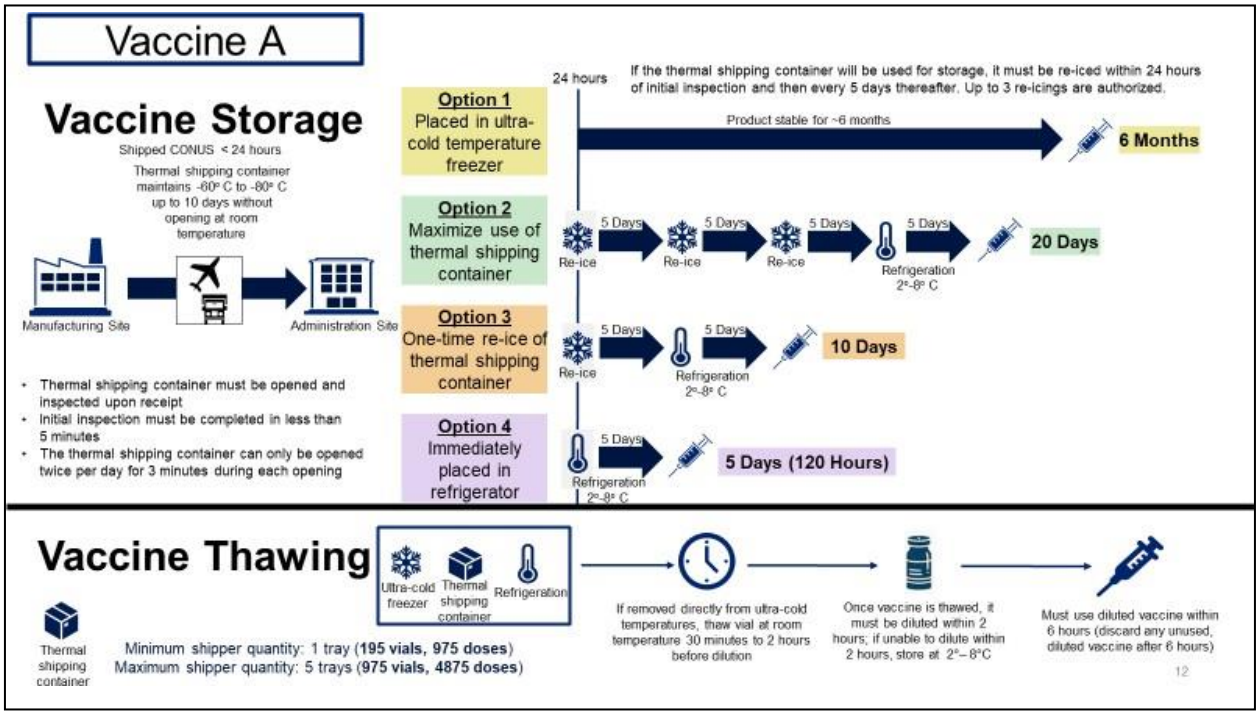
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The following materials are being provided to inform planning activities

Vaccine A *Storage and Handling Guide*



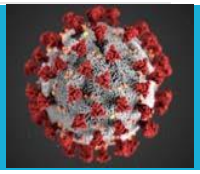
Vaccine A vaccination provider site archetypes for shipment timing and site planning

Site Types for Vaccine A Product

Vaccination provider site	Ordering assumptions			Operating assumptions				
	Order size	Storage conditions	Patient flow	Number of immunizers	Patients per immunizer	Hours per day	Vaccines per day	Shipment model
A – large outpatient center (mass vx)	1 tray (975 doses)	Thermal box with dry ice, 2-8C fridge, for product estimated at site (5 days)	~500/day	10 immunizers	6 patients/hour (~10 min/Vx)	8 hours	480 vaccinations	1 tray; 2-3 times per week
B – hospital or outpatient center	1 tray (975 doses)	Ultra-cold freezer, Thermal box with dry ice, 2-8C fridge, for product estimated at site (5 days)	Variable	4 immunizers	6 patients/hour (~10 min/Vx)	8 hours	192 vaccinations	1 tray; every week
C – large hospital with affiliated outpatient center	5 trays (4,875 doses)	Ultra-cold freezer, Thermal box with dry ice, 2-8C fridge, for product estimated at site (5 days)	Variable	7 immunizers (hospital outpatient clinic)	6 patients/hour (~10 min/Vx)	8 hours	340 vaccinations	1 tray; 1-2 times a week
D – outdoor parking lot vaccination hub at large retail pharmacy	1 tray (975 doses)	2-8C fridge, for product estimated at site (5 days)	~200/day	5 immunizers	6 patients/hour (~10 min/Vx)	N/A	240 vaccinations	1 tray; every week
E – mobile vaccination in targeted geographic areas	5 trays (4,875 doses)	2-8C fridge, for product estimated in mobile unit (5 days)	Variable	3 immunizers	6 patients/hour (~10 min/Vx)	Not specified	150 vaccinations	1 tray; every week

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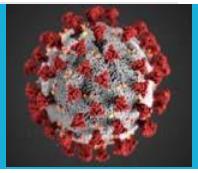
CDC COVID-19 Vaccine Product Information



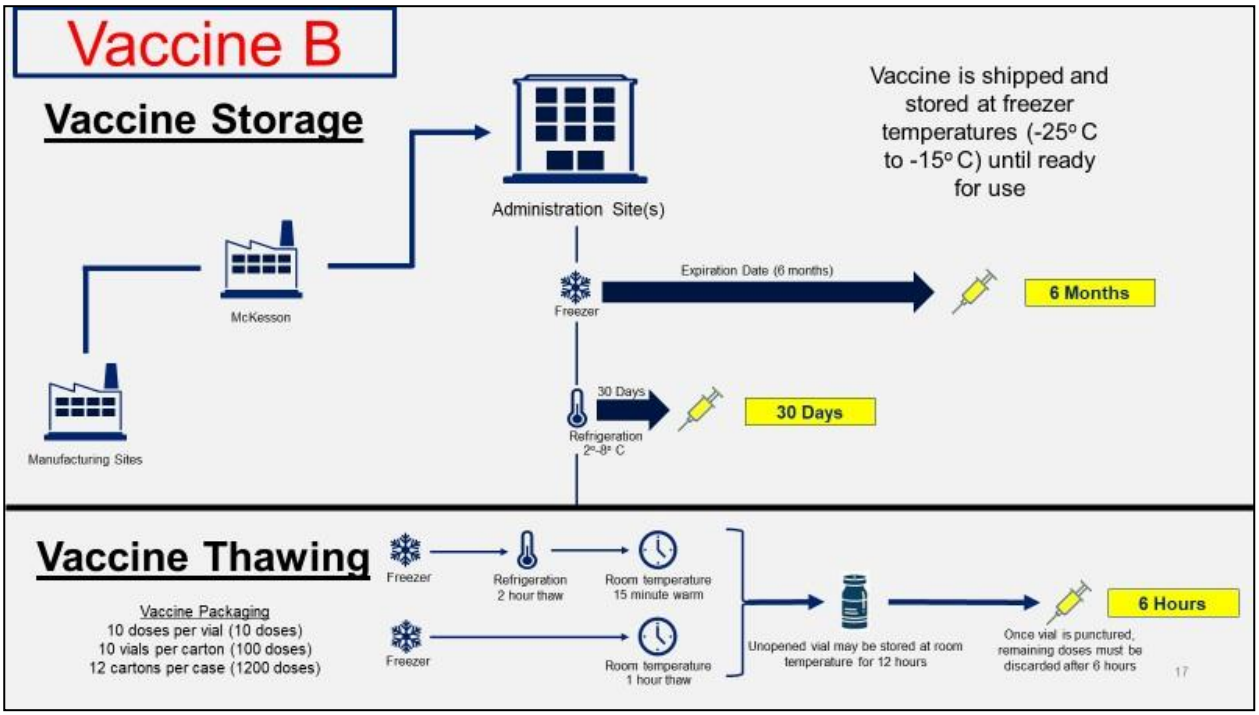
Site Types for Vaccine A Product

Vaccination provider site	Order size	Storage conditions	Patient flow	Number of immunizers	Patients per HCP	Hours per day	Vaccines per day	Shipment model
F – large indoor spaces not used during pandemic (convention hall)	5 trays (4,875 doses)	Thermal box with dry ice, 2-8C fridge, for product estimated at site (5 days)	Variable	10 immunizers	6 patients/hour (~10 min/Vx)	8 hours	480 vaccinations	2-3 trays; every week
G – Drive-through vaccination clinic	3 trays (2,925 doses)	Thermal box with dry ice, 2-8C fridge, for product estimated at site (5 days)	Variable	10 immunizers	6 patients/hour (~10 min/Vx)	8 hours	480 vaccinations (by 7 days)	2-3 trays; very week

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Vaccine B *Storage and Handling Guide*



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Direct-Ship Vaccine and Ancillary Kit

Pfizer Vaccine (Direct Ship)

Manufacturer	Pfizer
NDC # in VTrckS	59267-1000-02
Tray dimensions	229mm x 229mm x 40mm (approximately 9in x 9in x 1.5in)
Minimum order size and increment	975 doses
Presentation	5-dose multidose vial/195 MDV per tray
Items automatically added to your VTrckS order when you select this vaccine	Combined ancillary supply kit for administration and mixing (includes 0.9% preservative-free normal saline diluent)
Age indications	TBD
Vaccination schedule	2-dose series separated by at least 21 days
On-site vaccine storage	• -80°C to -60°C (-112°F and -76°F) in ultracold storage unit • -80°C to -60°C (-112°F and -76°F) in the original thermal shipping container with dry ice recharges. Please allow for forthcoming information on the maximum time for storage in these conditions. • 2° C to 8°C (36° F to 46°F) in a storage unit for up to 5 days (120 hours)
Additional information	• Vaccine will be shipped in a container that includes dry ice. Thermal shipping container dimensions are 400mm x 400mm x 560 mm (approximately 15 3/4in x 15 3/4in x 22in). • A thermal shipping container holds up to 5 cartons/trays. • If using the thermal shipping container to store vaccine, add dry ice pellets (9 mm to 16 mm) within 24 hours of delivery and every 5 days or as needed to maintain temperatures. • Unless a provider opts out, dry ice will be delivered within 24 hours of vaccine delivery to refill the thermal shipping container for the first re-ice only. Additional dry ice will not be provided. Locate a dry ice source if planning to use the shipping container to store vaccine for more than 5 days. • Do not use or store dry ice or liquid nitrogen (LN_2) in confined areas, walk-in refrigerators, environmental chambers or rooms without ventilation. A leak in such an area could cause an oxygen-deficient atmosphere. • A full shipping container with vaccine and dry ice weighs approximately 80 pounds.

Pfizer: https://www.pfizer.com/

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Combined Ancillary Supply Kit for Administration and Mixing (Direct Ship)

Kit description	Combined kit with small syringes for vaccine administration, mixing supplies, and diluent		
NDC # in VTrckS	11111-0006-02 (Adult)		
Kit dimensions/weight	24 in x 20 in x 24 in/40 lbs		
Minimum order size and increment	Kit to support administration of 975 doses (plus overage), including 0.9% preservative-free normal saline diluent		
Accompanies 0.3mL-dose vaccines	Pfizer		
Order Intention	Initially only adult kits will be available, when authorized for use in younger populations, pediatric and mixed (pediatric and adult) will be available for ordering.		
Contents	**Adult Kit*** • 829 needles (22-25G X 1") • 200 needles (22-25G X 1.5") • 205 mixing needles (21-25G X1.5") • 1024 syringes (1mL) • 205 syringes (3mL or 5mL) • 2458 alcohol pads • 1000 vaccination record cards • 10 needle gauge and length charts • 20 face shields • 40 surgical masks • 200 Diluent vials	**Pediatric Kit*** • 1024 needles (25G X 1") • 205 mixing needles (21-25G X1.5") • 1024 syringes (1mL) • 205 syringes (3mL or 5mL) • 2458 alcohol pads • 1000 vaccination record cards • 10 needle gauge and length charts • 20 face shields • 40 surgical masks • 200 Diluent vials	**Mixed Kit*** • 926 needles (25G X 1") • 100 needles (22-25G X1.5") • 205 mixing needles (21-25G X1.5") • 1024 syringes (1mL) • 205 syringes (3mL or 5mL) • 2458 alcohol pads • 1000 vaccination record cards • 10 needle gauge and length charts • 20 face shields • 40 surgical masks • 200 Diluent vials
Additional information	• Products and brands for kit components may vary. • All needles for vaccine administration are safety needles. • Mixing needles are conventional. • Due to the limited supply of needles and syringes, specification of preferences for needles or syringes is not feasible. • Kit and pallet configuration o 1 kit = 975 vaccinations (plus overage) o 1 pallet = 8 kits (supports 7,800 vaccinations, plus overage)   For more information about ancillary kit components: COVID-19 Vaccine Ancillary Supply Kit Guidance		

*The total number of needles in each adult, pediatric, and mixed combined ancillary supply kit for administration and mixing will vary (adult–1,029; pediatric–1,024; mixed–1,026). The difference in total number is related to increasing the kit build efficiency.

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Dry Ice Kit (Direct Ship)

Kit description	Dry ice kit with starter materials
NDC # in VTrckS	11111-0007-03
Kit dimensions/weight	TBD
Minimum order size and increment	Kit to support initial dry ice recharge of one thermal shipping container
Accompanies ultracold vaccine	Pfizer
Contents	• Dry ice (weight and pellet size requested from the Strategic National Stockpile) • Gloves for working with dry ice(1 pair) • Face shield (1) • Ice scoop (1) • OSHA dry ice safety card (1)
Additional information	• Products and brands for kit components may vary. -

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Centrally Distributed Vaccines and Ancillary Kits*

Vaccines (Centrally Distributed)

Manufacturer	Moderna
NDC # in VTrckS	80777-0273-99
Carton dimensions	53mm x 53mm x 137mm (approximately 2in x 2in x 5 3/8in)
Minimum order size and increment	100 doses
Presentation	10-dose multidose vial/10 MDV per carton
Items automatically added to your VTrckS order when you select this product	Ancillary supply administration kit: standard syringe
Vaccination schedule	2-dose series separated by at least 28 days
Age indications	TBD
On-site vaccine storage	• -25°C to -15°C (-13°F to 5°F) in vaccine storage unit • 2° to 8°C (36° to 46°F) in vaccine storage unit for up to 30 days if the vial is not entered. • Freezer temperature settings will require adjustment if storing this vaccine and varicella-containing vaccines in the same unit. The temperature range for this vaccine is limited compared to varicella-containing vaccines.

*Pfizer's COVID-19 vaccine is not centrally distributed; it is distributed directly from the manufacturer. Please refer to the next section for information on Pfizer COVID-19 vaccine.

Moderna: https://www.modernatx.com/

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Ancillary Supply Administration Kit: Standard Syringe (Centrally Distributed)

Kit description	Standard syringe kit for vaccine administration
NDC # in VTrckS	11111-0001-01 (Adult)
Kit dimensions/weight	14 in x 13 in x 9 in/3.5 lbs (standard ancillary adult kit)
Minimum order size and increment	Kit to support administration of 100 doses (plus overage)
Accompanies 0.5mL-dose vaccines	Moderna
Order Intention	Initially only adult kits will be available, when authorized for use in younger populations, pediatric and mixed (pediatric and adult) will be available for ordering.
Contents	**Adult Kit** • 85 needles (22-25G x 1") • 20 needles (22-25G x 1.5") • 105 syringes (1mL or 3mL) • 210 alcohol pads • 100 vaccination record cards • 1 needle gauge and length chart • 2 face shields • 4 surgical masks **Pediatric Kit** • 105 needles (25G x 1") • 105 syringes (1mL or 3mL) • 210 alcohol pads • 100 vaccination record cards • 1 needle gauge and length chart • 2 face shields • 4 surgical masks **Mixed Kit** • 95 needles (25G x 1") • 10 needles (22-25G x 1.5") • 105 syringes (1mL or 3mL) • 210 alcohol pads • 100 vaccination record cards • 1 needle gauge and length chart • 2 face shields • 4 surgical masks
Additional information	• Products and brands for kit components may vary. • All needles for vaccine administration are safety needles. • Due to the limited supply of needles and syringes, specification of preferences for needles or syringes is not feasible. • Kit and pallet configuration ○ 1 kit = 100 vaccinations (plus overage) ○ 1 pallet = 36 kits (supports 3,600 vaccinations, plus overage)  For more information about ancillary kits components: COVID-19 Vaccine Ancillary Supply Kit Guidance

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7910–00–685–6660—Pad, Machine, Scrubbing, Floor, 17″ x ¼″
7910–00–685–6671—Pad, Machine, Polishing, Floor, 15″ x ¼″
7910–00–685–6672—Pad, Machine, Polishing, Floor, 17″ x ¼″
7910–00–685–6686—Pad, Machine, Polishing, Floor, 12″ x ¼″
7910–00–685–6687—Pad, Machine, Polishing, Floor, 13″ x ¼″
7910–00–820–7989—Pad, Floor, Buffing, Nylon, Tan, 15″
7910–00–NIB–0006—Pad, Floor, Burnishing, Animal Hair, Gray, 17″
7910–00–NIB–0009—Pad, Floor, Burnishing, Animal Hair, Gray, 21″
7910–00–NIB–0016—Pad, Floor, Polishing, Animal Hair, Beige, 17″
7910–00–NIB–0029—Pad, Floor, Buffing, Polyester, Red, 14″
7910–00–NIB–0030—Pad, Floor, Buffing, Polyester, Red, 15″
7910–00–NIB–0034—Pad, Floor, Scrubbing, Polyester, Blue, 14″
7910–00–NIB–0040—Pad, Floor, Scrubbing, Polyester, Blue, 21″
7910–01–512–5933—Pad, Floor, Stripping, Polyester, Brown, 17″
7910–01–512–5937—Pad, Floor, Scrubbing, Polyester, Blue, 13″
7910–01–512–5950—Pad, Floor, Scrubbing, Polyester, Blue, 17″

Designated Source of Supply: Beacon Lighthouse, Inc., Wichita Falls, TX
Contracting Activity: GSA/FSS Greater Southwest ACQUISITI, Fort Worth, TX

Michael R. Jurkowski,

Deputy Director, Business & PL Operations.

[FR Doc. 2021–00151 Filed 1–7–21; 8:45 am]

BILLING CODE 6353–01–P

COUNCIL ON ENVIRONMENTAL QUALITY

Guidance Document Online Portal

AGENCY: Council on Environmental Quality.

ACTION: Notice of online portal for agency guidance documents.

SUMMARY: In accordance with Executive Order (E.O.) 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' dated October 9, 2019, and Office of Management and Budget (OMB) Memorandum M–20–02, dated October 31, 2019, the Council on Environmental Quality (CEQ) is providing notice of where the public may access CEQ guidance documents.

ADDRESSES: The portal may be found at *https://www.whitehouse.gov/ceq/resources/*.

FOR FURTHER INFORMATION CONTACT: Amy B. Coyle, Deputy General Counsel, Council on Environmental Quality, 730 Jackson Place NW, Washington, DC 20503, 202–395–5750, *amy.b.coyle@ceq.eop.gov*.

SUPPLEMENTARY INFORMATION: E.O. 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' [1] requires that each agency establish or maintain on its website a single, searchable, indexed database that contains or links to all agency guidance documents [2] in effect. In accordance with E.O. 13891 and OMB's implementing guidance, set forth in OMB Memorandum M–20–02,[3] CEQ has complied with this requirement through its website portal, which is available to the public at *whitehouse.gov/ceq/resources*.[4] As required by E.O. 13891, the website also reiterates that: (1) The contents of the guidance documents accessed through the portal lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract; and (2) these documents are intended only to provide clarity to the public regarding existing requirements under statutes and regulations administered by CEQ. Under the E.O., CEQ may not cite, use, or rely on any guidance document that is not posted on or linked to the website portal, except to establish historical facts.

CEQ will also include on its website portal a link to its final rule establishing CEQ's internal agency procedures for issuing guidance documents, required by section 4 of E.O. 13891. The final rule relating to CEQ's guidance document procedures is published elsewhere in this issue of the **Federal Register**.

Authority: 42 U.S.C. 4321–4347; 42 U.S.C. 4371–4375; and E.O. 13891, 84 FR 55235.

Mary B. Neumayr,

Chairman.

[FR Doc. 2020–28879 Filed 1–7–21; 8:45 am]

BILLING CODE 3125–F1–P

[1] 84 FR 55235 (Oct. 15, 2019).

[2] E.O. 13891 defines ''guidance document'' as ''an agency statement of general applicability, intended to have future effect on the behavior of regulated parties, that sets forth a policy on a statutory, regulatory, or technical issue, or an interpretation of a statute or regulation. . . .'' *Id.*

[3] OMB issued its guidance memorandum on October 31, 2019. *See* M–20–02, Guidance Implementing Executive Order 13891, Titled ''Promoting the Rule of Law Through Improved Agency Guidance Documents'' (Oct. 31, 2019), *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*.

[4] CEQ's website portal at *https://www.whitehouse.gov/ceq/resources/* includes links to CEQ guidance documents and resources, some of which are provided on nepa.gov (*https://www.energy.gov/nepa/ceq-guidance-documents*) and sustainability.gov (*https://www.sustainability.gov/resources.html*).

DEPARTMENT OF EDUCATION

[Docket No. ED–2020–SCC–0167]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before February 8, 2021.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Find this information collection request by selecting ''Department of Education'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox. Comments may also be sent to *ICDocketmgr@ed.gov*.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, (202) 377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note

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PART 220—[REMOVED]

■ Accordingly, for the reasons stated in the preamble and under the authority of 5 U.S.C. 301, the Corps removes 33 CFR part 220.

R.D. James,

Assistant Secretary of the Army (Civil Works).

[FR Doc. 2020–27908 Filed 1–7–21; 8:45 am]

BILLING CODE 3720–58–P

COUNCIL ON ENVIRONMENTAL QUALITY

40 CFR Part 1519

RIN 0331–AA04

Guidance Document Procedures

AGENCY: Council on Environmental Quality.

ACTION: Final rule.

SUMMARY: Pursuant to Executive Order (E.O.) 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' this final rule establishes the process that the Council on Environmental Quality (CEQ) will follow for issuing guidance documents. E.O. 13891 requires Federal agencies to finalize regulations or amend existing regulations to establish processes and procedures for issuing guidance documents.

DATES: This rule is effective January 8, 2021.

FOR FURTHER INFORMATION CONTACT: Amy B. Coyle, Deputy General Counsel, Council on Environmental Quality, 730 Jackson Place NW, Washington, DC 20503, (202) 395–5750, *amy.b.coyle@ceq.eop.gov*.

SUPPLEMENTARY INFORMATION:

On October 9, 2019, President Trump issued E.O. 13891,[1] which addresses the development, use, and public availability of agency guidance documents. It requires agencies to promulgate or update existing regulations setting forth their procedures for issuing guidance documents. In accordance with section 6 of E.O. 13891, on October 31, 2019, the Office of Management and Budget (OMB) issued memorandum M–20–02, ''Guidance Implementing Executive Order 13891, Titled 'Promoting the Rule of Law Through Improved Agency Guidance Documents' '' (OMB M–20–02)[2] to provide guidance and implement the Executive order. OMB M–20–02 provides agencies with additional instruction on how to implement E.O. 13891, including the required rulemaking.

I. Summary of Final Rule

In this final rule, CEQ adds a new part 1519 to the Code of Federal Regulations to set out its procedures for the development and issuance of guidance documents consistent with the direction and reflecting the policies described in E.O. 13891 and OMB M–20–02.

A. Section 1519.1, ''Purpose''

Section 1519.1, ''Purpose,'' states that the purpose of part 1519 is to implement E.O. 13891, and explains CEQ's process for developing and issuing guidance.

B. Section 1519.2, ''Guidance Document Procedures''

Section 1519.2, ''Guidance document procedures,'' defines ''guidance documents'' in paragraph (a) and describes documents that do not meet that definition in paragraph (b), consistent with section 2(b)[3] of the E.O. and Q2 of OMB M–20–02.

Paragraph (c) of § 1519.2 lists the minimum requirements for any document meeting the definition of a guidance document consistent with Q22 of OMB M–20–02, including a title, unique identification number, date, indication of whether it revises or replaces prior guidance, summaries, and legal citations. Additionally, consistent with section 4(i) of E.O. 13891, paragraph (c)(6) includes a requirement that each guidance document clearly state that it does not bind the public, except as authorized by law or as incorporated into a contract.

Paragraph (c)(11) of § 1519.2 specifies that any guidance document must be posted on CEQ's website. E.O. 13891 also directed Federal agencies to make guidance documents publicly available in an indexed, searchable database online. As described in the **Federal Register** notice published today, CEQ has complied with this requirement through its website *whitehouse.gov/ceq/resources*.[4] As noted on this website, CEQ may not cite, use, or rely on any guidance that is not posted on its web pages except to establish historical facts. CEQ also makes clear that CEQ's guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract.

Finally, paragraph (d) of § 1519.2 requires the CEQ Office of the General Counsel to review and clear all guidance documents before CEQ issues them.

C. Section 1519.3, ''Procedures for the Public To Request Withdrawal or Modification of a Guidance Document''

Consistent with section 4(ii) of E.O. 13891, § 1519.3, ''Procedures for the public to request withdrawal or modification of a guidance document,'' addresses the process for members of the public to petition CEQ to withdraw or modify a particular guidance document, including designation of the Office of the General Counsel as the office within CEQ to which the public should direct such petitions. CEQ intends to provide additional instructions on its guidance website, including appropriate contact information and format of the petitions.

D. Section 1519.4, ''Significant Guidance Documents''

Finally, § 1519.4, ''Significant guidance documents,'' addresses specific requirements for a subset of ''guidance documents'' that are ''significant guidance documents'' as defined by section 2(c) of E.O. 13891. Paragraph (a) sets forth that definition. OMB's Office of Information and Regulatory Affairs (OIRA) makes the final determination of whether a guidance document is significant. If OIRA makes such a determination for a particular guidance document, this section will also apply. Consistent with section 4(iii) of E.O. 13891, paragraph (b) sets forth procedural requirements, including public notice and comment for at least 30 days, unless an exception applies; public response to major concerns raised in comments; approval on a non-delegable basis by the Chairman, or an official acting as Chairman; review by OIRA under Executive Order 12866; and compliance with the applicable requirements for regulations or rules.

II. Rulemaking Analyses and Notices

A. Regulatory Procedures

Under the Administrative Procedure Act, an agency may waive notice and comment procedures if an action is an interpretative rule, a general statement of policy, or a rule of agency organization, procedure, or practice. *See* 5 U.S.C. 553(b)(A). This rule describes the internal process that CEQ will follow to comply with the requirements specified in E.O. 13891 when issuing guidance documents as defined by the

[1] 84 FR 55235 (Oct. 15, 2019).

[2] OMB M–20–02 is available at *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*.

[3] E.O. 13891 section 2(b) lists the following as exclusions to the definition of guidance document. 84 FR at 55235–36.

[4] CEQ's website, *whitehouse.gov/ceq/resources*, includes links to CEQ guidance documents and resources, some of which are provided on *nepa.gov* and *sustainability.gov*.

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E.O. Because this rule is one of agency organization, procedure, or practice, it is exempt from the requirement to provide prior notice and opportunity for public comment.

B. Regulatory Planning and Review (E.O. 12866 and E.O. 13563)

E.O. 12866 provides that OIRA will review all significant rules. E.O. 13563 reaffirms the principles of E.O. 12866, calling for improvements in the Federal government's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory objectives. OMB determined that this final rule does not meet the requirements for a significant regulatory action under E.O. 12866, as supplemented by E.O. 13563, and therefore it was not subject to review.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, as amended (RFA), 5 U.S.C. 601 *et seq.,* and E.O. 13272 do not apply to this rulemaking because it is not subject to the notice and comment requirements of 5 U.S.C. 553(b).

D. Unfunded Mandates Reform Act

A statement containing the information required by the Unfunded Mandates Reform Act, 2 U.S.C. 1531 *et seq.,* is not required. This rule will not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year, and it will not have a significant or unique effect on State, local, or Tribal governments, or the private sector.

E. Reducing Regulation and Controlling Regulatory Costs (E.O. 13771)

This rule is not an E.O. 13771 regulatory action because this rule is not significant under E.O. 12866.

F. Federalism (E.O. 13132)

Under the criteria in section 1 of E.O. 13132, this rule will not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement because it will not substantially and directly affect the relationship between the Federal and State governments.

G. National Environmental Policy Act

The purpose of this rulemaking is to formalize the CEQ's administrative procedures for issuing guidance documents, as required by E.O. 13891. CEQ has determined that the final rule is a non-major Federal action under the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.,* and would not have any effect on the environment because it merely outlines internal CEQ administrative procedures and does not authorize any activity or commit resources to a project that may affect the environment.

H. Paperwork Reduction Act

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This rule will not impose recordkeeping or reporting requirements on State, local, or Tribal governments, individuals, businesses, or organizations.

List of Subjects in 40 CFR Part 1519

Administrative practice and procedure, Guidance.

Mary B. Neumayr,
Chairman.

■ For the reasons stated in the preamble, the Council on Environmental Quality adds 40 CFR part 1519 as follows:

PART 1519—GUIDANCE DOCUMENTS

Sec.
1519.1 Purpose.
1519.2 Guidance document procedures.
1519.3 Procedures for the public to request withdrawal or modification of a guidance document.
1519.4 Significant guidance documents.

Authority: 42 U.S.C. 4321–4347; 42 U.S.C. 4371–4375; and E.O. 13891, 84 FR 55235.

§ 1519.1 Purpose.

(a) This part implements Executive Order 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' and reflects the policies described in that order. The provisions in this part address the Council on Environmental Quality's procedures for the development and issuance of agency guidance documents. This part explains what constitutes guidance documents, and sets forth the minimum requirements for guidance documents, the procedures to request withdrawal or modification of guidance documents, and the additional requirements and procedures for significant guidance documents.

(b) This part is intended to improve the internal management of the Council on Environmental Quality. It is not intended to and does not create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its agencies or other entities, its officers or employees, or any other person.

(c) If Executive Order 13891 or any provision thereof is rescinded or superseded, this part remains in effect.

§ 1519.2 Guidance document procedures.

(a) *Definition of guidance documents.* For purposes of this part, guidance documents are agency statements of general applicability, intended to have future effect on the behavior of regulated parties, that set forth a policy on a statutory, regulatory, or technical issue, or an interpretation of a statute or regulation.

(b) *Documents excluded from the definition of guidance documents.* Guidance documents do not include:

(1) Agency statements of specific, rather than general, applicability.

(2) Agency statements that do not set forth a policy on a statutory, regulatory, or technical issue or an interpretation of a statute or regulation.

(3) Legislative rules promulgated under 5 U.S.C. 553 (or similar statutory provisions), or exempt from rulemaking requirements under 5 U.S.C. 553(a).

(4) Rules of agency organization, procedure, or practice that are not anticipated to have substantial future effect on the behavior of regulated parties or the public.

(5) Decisions of agency adjudication.

(6) Documents or agency statements that are directed solely to the Council on Environmental Quality or other agencies (or personnel of such agencies) that are not anticipated to have substantial future effect on the behavior of regulated parties or the public.

(7) Legal briefs and other court filings.

(8) Legal advice or opinions from the Council on Environmental Quality's Office of the General Counsel.

(9) Categories of guidance documents made exempt from Executive Order 13891 by the Administrator of the Office of Management and Budget's Office of Information and Regulatory Affairs through memoranda issued pursuant to section 4(b) of Executive Order 13891.

(c) *Elements of guidance documents.* In general, each guidance document must:

(1) Provide the title of the guidance document;

(2) Provide a unique document identification number;

(3) Identify the Council on Environmental Quality and any office, as appropriate, issuing the guidance document;

(4) Include the date of issuance;

(5) Include the term ''guidance'';

(6) Include a disclaimer clarifying that it does not have the force and effect of law; is not meant to bind the public in any way; and is intended only to provide clarity to the public regarding

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existing requirements under the law or agency policies. When a guidance document is binding because the law authorizes binding guidance or because a contract incorporates the guidance, the Council on Environmental Quality must modify the disclaimer to reflect accordingly;

(7) If it is a revision to or a replacement of a previously issued guidance document, identify the guidance document that it revises or replaces;

(8) Include a short summary of the subject matter covered in the guidance document at the top of the document;

(9) Identify the activities to which and the persons to whom the guidance document applies;

(10) Include the citation to the statutory provision or regulation to which the guidance document applies or which it interprets; and

(11) Be posted on the Council on Environmental Quality's website.

(d) *Review and clearance.* The Office of the General Counsel must review and clear all proposed guidance documents before issuance.

§ 1519.3 Procedures for the public to request withdrawal or modification of a guidance document.

(a) Any member of the public may petition the Council on Environmental Quality to withdraw or modify a guidance document.

(b) The petitioner must submit the request for the withdrawal or modification of a guidance document in writing to the Office of the General Counsel. The petition must contain a statement of the reasons for the petition and any supporting documents to support the petitioner's request.

(c) Upon receipt of a petition for withdrawal or modification of a guidance document, the Office of the General Counsel will consult with the relevant offices and coordinate the response to the petition.

(d) The Council on Environmental Quality should respond to a petition in writing, including electronically, within 90 days of receipt of a petition. The response should state whether the petition is granted, granted in part and denied in part, denied, or provisionally denied for lack of adequate information. If the petition is provisionally denied for lack of adequate information, the response should indicate what additional information is necessary to adjudicate the petition. The Office of the General Counsel should respond to the petition in writing no later than 90 days after receipt of the necessary additional information. The response should state whether the petition is granted, granted in part and denied in part, or denied.

(e) The Council on Environmental Quality may consider in a coordinated manner or provide a coordinated response to similar petitions for withdrawal or modification.

(f) The Council on Environmental Quality need not respond to petitions under this part for withdrawal or modification of documents that do not meet the definition of a guidance document.

§ 1519.4 Significant guidance documents.

(a) *Significant guidance documents definition.* For the purposes of this section, significant guidance documents are guidance documents that may be reasonably anticipated to:

(1) Lead to an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles of Executive Order 12866.

(b) *Actions the Council on Environmental Quality will take before issuing significant guidance documents.* When the Office of Management and Budget's Office of Information and Regulatory Affairs determines that a guidance document is a significant guidance document, the Council on Environmental Quality must:

(1) Submit the guidance document for review by the Office of Information and Regulatory Affairs under Executive Order 12866;

(2) Publish the draft significant guidance document in the **Federal Register** for a public notice and comment period of at least 30 days;

(i) This provision will not apply if the Council on Environmental Quality for good cause finds that notice and public comment is impracticable, unnecessary, or contrary to the public interest.

(ii) If such a finding is made, the Council on Environmental Quality must incorporate such a finding and a brief statement of its reasoning into the significant guidance document.

(3) Obtain approval on a non-delegable basis from the Chairman or an official who is serving in an acting capacity as the Chairman.

(4) Provide a public response to major concerns raised in comments on the draft significant guidance document.

(5) Announce the availability of the final significant guidance document.

(6) Comply with the applicable requirements for regulations or rules, including significant regulatory actions, set forth in Executive Orders 12866, ''Regulatory Planning and Review,'' 13563, ''Improving Regulation and Regulatory Review,'' 13609, ''Promoting International Regulatory Cooperation,'' 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' and 13777, ''Enforcing the Regulatory Reform Agenda.''

(c) *Exemption.* This section will not apply if the Chairman or an official who is serving in an acting capacity as the Chairman of the Council on Environmental Quality and the Administrator of the Office of Information and Regulatory Affairs agree that exigency, safety, health, or other compelling cause warrants an exemption from some or all requirements.

[FR Doc. 2020–28881 Filed 1–7–21; 8:45 am]

BILLING CODE 3225–F1–P

FEDERAL PERMITTING IMPROVEMENT STEERING COUNCIL

40 CFR Chapter IX

[Agency Docket Number 2020–001]

RIN 3121–AA01

Adding Mining as a Sector of Projects Eligible for Coverage Under Title 41 of the Fixing America's Surface Transportation Act

AGENCY: Federal Permitting Improvement Steering Council.

ACTION: Final rule.

SUMMARY: The Federal Permitting Improvement Steering Council (Permitting Council) has voted to add mining as a sector with infrastructure projects eligible for coverage under Title 41 of the Fixing America's Surface Transportation Act (FAST–41). A new part will be included in the Code of Federal Regulations that adds mining to the list of statutory FAST–41 sectors. The addition of mining as a FAST–41 sector will allow qualified mining infrastructure projects to become FAST–41 covered projects. FAST–41 coverage will help Federal agencies coordinate their environmental and project review efforts to improve the timeliness, efficiency, predictability, and transparency of the decision-making processes associated with covered

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Rules and Regulations

Federal Register
Vol. 86, No. 3
Wednesday, January 6, 2021

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 760

[Docket ID: FSA–2020–0011]

RIN 0560–AI55

Agricultural Disaster Indemnity Programs

AGENCY: Farm Service Agency (FSA), Department of Agriculture (USDA).

ACTION: Final rule.

SUMMARY: This rule establishes the Quality Loss Adjustment (QLA) Program to provide assistance to producers who suffered eligible crop quality losses due to hurricanes, excessive moisture, floods, drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. It also amends the provisions for the Wildfire and Hurricane Indemnity Program Plus (WHIP+) to be consistent with the Further Consolidated Appropriations Act, 2020, by adding excessive moisture and drought occurring in 2018 and 2019 as qualifying disaster events and clarifying eligibility of sugar beets. The changes to WHIP+ were self-enacting and were previously implemented by FSA.

DATES:

Effective date: January 6, 2021.

Comment due date: Comments are due by March 8, 2021.

ADDRESSES: We invite you to submit comments on this rule. You may submit comments by either of the following methods, although FSA prefers that you submit comments electronically through the Federal eRulemaking Portal:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and search for Docket ID FSA–2020–0011. Follow the instructions for submitting comments.
- *Mail:* Director, SND, FSA, U.S. Department of Agriculture, 1400 Independence Avenue SW, Stop 0522, Washington, DC 20250–0522. In your comment, specify the docket ID FSA–2020–0011.

Comments will be available for viewing online at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Kimberly Graham at (202) 720–6825 (voice); or by email at: *kimberly.graham@usda.gov*. Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice).

SUPPLEMENTARY INFORMATION:

Background

The Additional Supplemental Appropriations for Disaster Relief Act, 2019 (''Disaster Relief Act,'' Pub. L. 116–20) provided disaster assistance for necessary expenses related to losses of crops (including milk, on-farm stored commodities, crops prevented from planting in 2019, and harvested adulterated wine grapes), trees, bushes, and vines, as a consequence of hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. The Further Consolidated Appropriations Act, 2020 (Pub. L. 116–94), makes several changes to the provisions of the Disaster Relief Act, including:

- Specifying that assistance would be provided for crop quality losses;
- Adding excessive moisture as a qualifying disaster event;
- Adding drought as a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year; and
- Providing that sugar beet losses in 2018 and 2019 would be paid through cooperative processors (to be paid to producer members as determined by such processors).

This rule implements those provisions of the Further Consolidated Appropriations Act, 2020, by establishing the QLA Program to provide assistance for crop quality losses and amending the WHIP+ regulations to be consistent with the changes to qualifying disaster events and eligibility of sugar beet losses.

QLA Program

This rule establishes the QLA Program to provide disaster assistance for crop quality losses that were a consequence of hurricanes, excessive moisture, floods, qualifying drought, tornadoes, typhoons, volcanic activity, snowstorms, or wildfires occurring in calendar years 2018 and 2019. Eligible crops generally include crops for which FCIC crop insurance coverage or Noninsured Crop Disaster Assistance Program (NAP) coverage is available; however, value loss crops,[1] honey, and maple sap are not eligible. The QLA Program provides assistance for losses to crops that were sold or fed to livestock or are in storage; crops that were destroyed are not eligible. Assistance will be based on a producer's harvested affected production of an eligible crop that had a quality loss due to a qualifying disaster event and had at least a 5 percent quality loss due to all eligible disaster events.

Qualifying disaster events include hurricanes, floods, tornados, typhoons, volcanic activity, snowstorms, wildfires, excessive moisture, qualifying drought, and related conditions that occurred in the 2018 or 2019 calendar year. Assistance is available for eligible producers in counties that received a qualifying Presidential Emergency Disaster Declaration (declaration) or Secretarial Disaster Designation (designation) due to one or more of the qualifying disaster events or a related condition. As required by the Further Consolidated Appropriations Act, 2020, drought is only a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year (referred to as ''qualifying drought'' in this rule). Only producers in those counties that received a disaster declaration or designation qualify for the QLA Program based on the declaration or designation. Producers in counties that did not receive a qualifying declaration or designation may still apply; however, they must also provide supporting documentation to establish that the crop was directly affected by a qualifying disaster event and suffered the same

[1] Value loss crops include aquaculture, floriculture, mushrooms, ginseng root, ornamental nursery, sea grass and sea oats, Christmas trees, and turfgrass sod.

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minimum loss as required by a crop in a disaster declared or designated county. Lists of counties with Presidential Emergency Disaster Declarations and Secretarial Disaster Designations for all qualifying disaster events for 2018 and 2019 are available at *farmers.gov/quality-loss.*

FSA recognizes that a crop may suffer quality losses due to multiple disaster events in a single crop year, and the portion of a crop's quality loss that can be attributed to a specific disaster event may be difficult to determine. Therefore, while a qualifying disaster event must have caused at least a portion of the affected production's quality loss, FSA will consider the total quality loss caused by all eligible disaster events for eligibility and payment calculation purposes. Eligible disaster events for the QLA Program include those listed for NAP in 7 CFR 1437.10, except that the QLA Program does not cover losses due to insect infestation.

The QLA Program does not cover losses due to disaster events occurring after a crop was harvested or due to crop deterioration while in storage. Quality losses that could have been mitigated using good farming practices are not eligible. For example, if a producer's corn crop received a quality discount due to high moisture content, the producer could have mitigated that quality loss by using best practices for drying and storing the crop; therefore, that producer's quality loss due to high moisture is not eligible. The QLA Program does not provide assistance for losses that cannot be determined to have occurred or for losses for which a notice of loss was previously disapproved by FSA, RMA, or an approved insurance provider selling and servicing Federal crop insurance policies unless that notice of loss was disapproved solely because it was filed after the applicable deadline.

The QLA Program does not provide assistance for certain quality losses that were already compensated under a Federal crop insurance plan, NAP, or WHIP+. This includes losses to affected production of:

- Multiple market crops already compensated under crop insurance or WHIP+;
- Crops for which production used to calculate a crop insurance indemnity or WHIP+ payment was adjusted based on a comparison of the producer's sale price to the FCIC established price;
- Crops that received a crop insurance indemnity, NAP payment, or WHIP+ payment based on the quantity of production that was considered unmarketable; and
- Crops for which production was reported as salvage value or secondary use.

The QLA Program also excludes quality losses to sugar beets that were compensated through cooperative agreements with cooperative processors.

Affected production of a subsequent crop grown on double cropped acreage is only eligible if the crop has been approved as an eligible double cropping practice by the FSA State committee.

Application

FSA will accept QLA Program applications from January 6, 2021, through March 5, 2021. To apply, producers must submit a completed QLA Program application either in person, by mail, email, or facsimile to an FSA county office. To be eligible, a producer must submit a complete application, which includes all of the following:

- FSA–898, Quality Loss Adjustment (QLA) Program Application;
- FSA–899, Historical Nutritional Value Weighted Average Worksheet (only for forage crops with verifiable documentation of historical nutrient factors from the 3 preceding crop years);
- FSA–578, Report of Acreage;
- FSA–895, Crop Insurance and/or NAP Coverage Agreement; and
- Required documentation, as discussed below.

The FSA–578, FSA–895, and FSA–899 forms, and other required documentation must be submitted to the producer's county office by March 19, 2021.

If not already on file with FSA, producers must also submit the following eligibility forms for each crop year within 60 days of the date the producer signs the application:

- AD–1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification;
- CCC–902, Farm Operating Plan for Payment Eligibility;
- CCC–941 Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information; and
- CCC–942 Certification of Income from Farming, Ranching and Forestry Operations, if applicable.

Payments will not be made until all necessary eligibility documentation is received. Failure of an applicant to submit documentation timely may result in FSA not issuing a payment or, in the case of legal entities, a reduced payment if the required documentation for one or more members of the entity is not submitted timely.

Required Documentation

To support their applications, producers must submit documentation showing the quality loss and quantity of affected production by March 19, 2021. Documentation of the quality loss (total dollar value loss, grading factors, and nutrient factors, as applicable), must be verifiable. Verifiable documentation is documentation that can be verified by FSA through an independent source; FSA may verify the submitted records with records on file at the warehouse, gin, laboratory, or other entity that received or tested the reported production. Examples of acceptable, verifiable documentation include warehouse grading sheets, settlement sheets, sales receipts, and laboratory test results. Except for grain crops that have been sold, the documentation must be from laboratory tests or analysis completed within 30 days of harvest to be considered acceptable, unless the FSA county committee determines that the record is representative of the condition of the affected production within 30 days of harvest. For grain crops that were sold, the verifiable documentation can be from any time from harvest through the time of sale, unless the FSA county committee determines the record is not representative of the condition within 30 days of harvest. Producers who do not have acceptable, verifiable documentation are ineligible for the QLA Program.

For forage crops, all producers must submit verifiable documentation showing the nutrient factors for the affected production of the crop. Producers must also submit verifiable documentation of the historical nutrient factors for the 3 preceding crop years if available. The type of nutrient factors (such as relative feed value or total digestible nutrients) that must be documented for a particular crop will be determined by the FSA county committee based on the standard practice for the crop in that county. For all crops other than forage crops, producers must submit verifiable documentation of the total dollar value loss due to quality, if available, and verifiable documentation of grading factors due to quality.

Documentation to support the quantity of affected production included on the application must be verifiable for non-forage crops that receive a QLA payment based on the producer's total dollar value loss. For all other crops (non-forage crops without a producer's total dollar value loss and all forage crops), records to support the quantity of affected production must be reliable. Reliable production records means evidence provided by the participant that is used to substantiate the amount of production reported when verifiable

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records are not available, including copies of receipts, ledgers of income, income statements of deposit slips, register tapes, invoices for custom harvesting, and records to verify production costs, contemporaneous measurements, truck scale tickets, and contemporaneous diaries that are determined acceptable by the FSA county committee. To determine whether the records are acceptable, the FSA county committee will consider whether they are consistent with the records of other producers of the crop in that area.

Payment Calculation

QLA Program payments will be calculated using different formulas based on the type of crop (forage or non-forage) and based on the type of documentation submitted. All QLA payments, regardless of whether they are forage or non-forage, and the type of documentation submitted, will be calculated using a 70 percent payment factor. Payments calculated based on a county average loss, as described below, will be subject to an additional payment factor of 50 percent.

For forage crops with verifiable documentation of both the nutrient factors for the affected production and historical nutrient factors for the 3 preceding crop years, payment will be equal to the amount of the producer's total affected production multiplied by the producer's verifiable percentage of loss, multiplied by the average market price determined by FSA, multiplied by 70 percent. The producer's verifiable percentage of loss is determined by comparing the nutrient factor test results for the affected production to the average from the 3 preceding crop years, as documented on the FSA–899, Historical Nutritional Value Weighted Average Worksheet. The average market price for the QLA Program is the price used for NAP established according to 7 CFR 1437.12.

For forage crops with verifiable documentation of nutrient factors for the affected production but without historical nutrient factors for the 3 preceding crop years, the payment will be equal to the amount of the producer's total affected production multiplied by the county average percentage of loss, multiplied by the average market price determined by FSA, multiplied by 70 percent, multiplied by 50 percent.

For affected production of non-forage crops with verifiable documentation of the total dollar value loss due to quality, the QLA Program payment is equal to the producer's total dollar value loss on the affected production of the crop, multiplied by a payment factor of 70 percent.

For non-forage crops without verifiable documentation of a total dollar value loss but with verifiable documentation of grading factors due to quality, the payment will be equal to the amount of producer's affected production multiplied by the county average loss per unit of measure, multiplied by 70 percent, multiplied by 50 percent.

To determine the county average percentage of loss (for forage crops) or the county average loss per unit of measure (for non-forage crops), FSA will calculate the average loss for a crop based on losses of producers applying with verifiable documentation of historical nutritional factors (for forage crops) or the total dollar value loss (for non-forage crops) if at least 5 eligible producers submitted that documentation in the county. If less than 5 eligible producers in a county submit verifiable documentation of their historical nutritional factors or their total dollar value loss, FSA will determine a county average percentage of loss or county average loss per unit of measure based on the best available data, including losses of other QLA Program participants in contiguous counties. If sufficient data is still not available after considering other sources, FSA may determine that a county average cannot be calculated and producers in that county applying for payment under the applicable calculation are ineligible.

Payments for the QLA Program will not be issued until the application period has ended in order to allow FSA to determine the county average losses, as well as the total payments requested under the QLA Program. The Further Consolidated Appropriations Act, 2020 provides funding for the QLA Program to be available until December 31, 2021, in an amount equal to the remaining funds provided under the Bipartisan Budget Act of 2018 (Pub. L. 115–123) for losses due to Hurricanes Harvey, Irma, Maria, and other hurricanes and wildfires occurring in calendar year 2017,[2] and remaining funds provided under the Disaster Relief Act for losses due to Hurricanes Michael and Florence, other hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.[3] If the total amount of calculated QLA Program payments exceeds the amount of funding available, FSA will prorate all payments by a national factor.

A person or legal entity, other than a joint venture or general partnership, is eligible to receive, directly or indirectly, up to $125,000 per crop year in QLA Program payments. FSA will use the notification of interest provisions in 7 CFR 1400.107 and payment attribution provisions in 7 CFR 1400.105 for attributing and limiting payments to persons and legal entities. FSA will also use provisions in 7 CFR 1400.104 when changes in a farming operation result in an increase in persons to which payment limitation applies. Payments made to a joint operation (including a general partnership or joint venture) cannot exceed $250,000 per person or legal entity that comprise the ownership of the joint operation. Payments made to a legal entity will be reduced proportionately by an amount that represents the direct or indirect ownership in the legal entity by any person or legal entity that has otherwise reached the maximum payment limitation. These rules for attributing and limiting payments are consistent with the programs FSA administers on behalf of the Commodity Credit Corporation.

A person or legal entity, other than a joint venture or general partnership, is ineligible for a 2018, 2019, or 2020 payment if the person's or legal entity's average adjusted gross income (AGI) is more than $900,000, unless at least 75 percent of that person's or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. The average AGI for each of the program years 2018, 2019, or 2020, is determined using the average of the adjusted gross incomes for the 3 taxable years preceding the most immediately preceding taxable year. For example, for the 2019 program year, the producer's AGI would be based on the 2015, 2016, and 2017 tax years. If at least 75 percent of the person's or legal entity's AGI is derived from farming, ranching, or forestry-related activities and the participant provides the required certification and documentation, the person or legal entity is eligible to

[2] FSA provided assistance for losses due to Hurricanes Harvey, Irma, Maria, and other hurricanes and wildfires occurring in calendar year 2017 through the 2017 Wildfires and Hurricanes Indemnity Program (2017 WHIP) (final rule published July 18, 2018, 83 FR 33795–33809) and the Florida Citrus Recovery Grant Program.

[3] FSA has previously provided assistance for losses due to Hurricanes Michael and Florence, other hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019 through the Wildfires and Hurricanes Indemnity Program Plus (WHIP+), On-Farm Storage Loss Program, and Milk Loss Program (final rule published September 13, 2019, 84 FR 48518–48537), as well as through several grants and cooperative agreements with sugar beet cooperatives.

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receive QLA Program payments up to the applicable payment limitation noted above. With respect to joint ventures and general partnerships, this AGI provision will be applied to each member of the joint venture and general partnership.

Requirement to Purchase Crop Insurance or NAP Coverage

The Disaster Relief Act requires all participants who receive QLA Program payments to purchase crop insurance or NAP coverage for the next 2 available crop years. The latest year for meeting compliance with this provision will be the 2023 crop year. In other words, if the 2 consecutive years of coverage are not met by 2023 coverage year, the participant is ineligible for and must refund QLP Program payments. Participants must obtain crop insurance or NAP, as may be applicable, at the 60 percent coverage level or higher. In situations where crop insurance is unavailable for a crop, the Disaster Relief Act requires that a QLA Program participant obtain NAP coverage. Section 1001D of the Food Security Act of 1985 (1985 Farm Bill) provides that a person or entity with AGI in amount greater than $900,000 is not eligible to participate in NAP; however, producers with an AGI greater than $900,000 may be eligible for the QLA Program if at least 75 percent of that person's or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. Accordingly, in order to reconcile this restriction in the 1985 Farm Bill and the Disaster Relief Act's requirement to obtain NAP or crop insurance coverage, QLA Program participants may meet the Disaster Relief Act's purchase requirement by purchasing Whole-Farm Revenue Protection crop insurance coverage, if eligible, or they may pay the applicable NAP service fee and premium for the 60 percent coverage level despite their ineligibility for a NAP payment. In other words, the service fee and premium must be paid even though no NAP payment may be made because the AGI of the person or entity exceeds the 1985 Farm Bill limitation.

The crop insurance and NAP coverage requirements are specific to the crop and county (county where the crop is physically located for insurance and administrative county for NAP) for which QLA Program payments are paid. This means that a producer is required to purchase crop insurance or NAP coverage for the crop in the county for which the producer was issued a QLA Program payment. Producers who receive a payment on a crop in a county and who have the crop or crop acreage in subsequent years, as provided in this rule, and who fail to obtain the 2 years of crop insurance or NAP coverage must refund all QLA Program payments for that crop in that county with interest from the date of disbursement. This is a condition of payment eligibility specified by Disaster Relief Act and is therefore not subject to partial payment eligibility or other types of equitable relief. Producers who were paid under the QLA Program for a crop in a county but do not plant that crop in a subsequent year are not subject to the crop insurance or NAP purchase requirement. WHIP+ participants who already met the requirement to purchase crop insurance or NAP coverage as specified in 7 CFR 760.1517 are considered to have also met the requirement to purchase crop insurance or NAP coverage for QLA Program purposes, and they are not required to obtain additional years of crop insurance or NAP coverage as a result of also receiving a QLA Program payment for that crop.

Applicable general eligibility requirements, including recordkeeping requirements and required compliance with HELC and Wetland Conservation provisions, are similar to those for the previous ad hoc crop disaster programs and current permanent disaster programs. All information provided to FSA for program eligibility and payment calculation purposes, including production records, is subject to spot check.

WHIP+

FSA, on behalf of the Secretary of Agriculture, previously implemented provisions of the Disaster Relief Act by establishing WHIP+ through a final rule published on September 19, 2019 (84 FR 48518–48537). The Disaster Relief Act provided assistance for losses of crops, trees, bushes, and vines, as a consequence of hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. WHIP+ covers only production losses of crops except in specific circumstances discussed previously in this document when the producer may have also been compensated for quality losses.

This rule amends 7 CFR 760.1500(c) and the definition of ''qualifying disaster event'' in § 760.1502 to include excessive moisture and qualifying drought. As under the QLA Program, drought is only considered a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year. This rule adds definitions of ''qualifying drought'' and ''U.S. Drought Monitor'' in § 760.1502.

The addition of these qualifying disaster events for WHIP+ was self-enacting as the text in the law clearly specified the required changes without need for interpretation; therefore, FSA began the sign-up period for losses due to excessive moisture and qualifying drought on March 23, 2020, and sign-up ended on October 30, 2020. Producers applying for WHIP+ assistance for losses due to excessive moisture or qualifying drought were required to meet all requirements in 7 CFR part 760, subpart O, including the requirement to purchase crop insurance for 2 years as specified in § 760.1517.

The Further Consolidated Appropriations Act, 2020 also directed the Secretary to pay sugar beet losses in 2018 and 2019 through cooperative processors. FSA has established cooperative agreements with sugar beet processors; those processors will be responsible for distributing assistance to their members. This rule amends the eligibility provisions in § 760.1517 to specify that members of cooperatives are not eligible for a WHIP+ payment for sugar beet losses.

FSA is also updating § 760.1510(a) to reflect the application deadline of October 30, 2020, and correcting references in §§ 760.1508(c) and (f) and 760.1511(a)(6).

Notice and Comment and Effective Date

The Administrative Procedure Act (5 U.S.C. 553) provides that the notice and comment and 30-day delay in the effective date provisions do not apply when the rule involves a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts. This rule involves programs for payments to certain agricultural commodity producers and therefore falls within that exemption. Due to the nature of the rule and the need to implement the regulations expeditiously to provide assistance to agricultural producers, FSA finds that notice and public procedure are contrary to the public interest. Therefore, even though this rule is a major rule for purposes of the Congressional Review Act, FSA is not required to delay the effective date for 60 days from the date of publication to allow for Congressional review. Therefore, this rule is effective upon publication in the **Federal Register**.

Executive Orders 12866, 13563, 13771 and 13777

Executive Order 12866, ''Regulatory Planning and Review,'' and Executive

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Order 13563, ''Improving Regulation and Regulatory Review,'' direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13777, ''Enforcing the Regulatory Reform Agenda,'' established a Federal policy to alleviate unnecessary regulatory burdens on the American people.

The Office of Management and Budget (OMB) designated this rule as economically significant under Executive Order 12866, and therefore, OMB has reviewed this rule. The costs and benefits of this rule are summarized below. The full cost benefit analysis is available on *regulations.gov.*

Executive Order 13771, titled Reducing Regulation and Controlling Regulatory Costs, was issued on January 30, 2017. The OMB guidance in M–17–21, dated April 5, 2017, specifies that ''transfers'' are not covered by Executive Order 13771 but that requirements imposed apart from transfers in transfer rules may qualify as costs or cost savings under Executive Order 13771, for example the information collection requirements in this rule. This rule is not subject to the requirements of E.O. 13771 because this rule results in no more than de minimis costs.

Cost Benefit Analysis Summary

WHIP+ initially provided approximately $3 billion in supplemental assistance to producers for qualifying agricultural production losses. In the Further Consolidated Appropriations Act, 2020, Congress changed provisions of the Disaster Relief Act as follows:

1. Extended eligibility under WHIP+ to also cover [4]—

a. Crop production losses due to excessive moisture in calendar years 2018 and 2019;

b. Crop production losses due to drought in calendar years 2018 and 2019 if the area within the county in which the loss occurred was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year;

2. Provided assistance for sugar beet losses in 2018 and 2019 to be paid through cooperative processors; [5] and

3. Authorized assistance for crop quality losses that occurred in calendar years 2018 and 2019 through the QLA Program (implemented by this rule).

Eligible crops under the QLA Program include crops for which Federal crop insurance or NAP coverage is available. To be eligible for the QLA Program, a crop must have suffered a quality loss due to a qualifying disaster event and had at least a 5 percent quality discount due to a combination of the qualifying disaster event and any other QLA-eligible causes of loss. Eligible crops may have been sold, fed on farm to livestock, or been in storage at the time of application.

USDA estimates the Further Consolidated Appropriations Act, 2020 will provide approximately $950 million for the continuation of disaster assistance program delivery, including payments to eligible producers for production losses due to excessive moisture and extreme drought under WHIP+ and for quality losses covered by the QLA Program. Of that amount, USDA anticipates that an estimated $500 million will be available for QLA Program payments. However, the amount of funding ultimately available for the QLA Program will not be known until other payments, for example for excessive moisture and drought under WHIP+, are finalized.

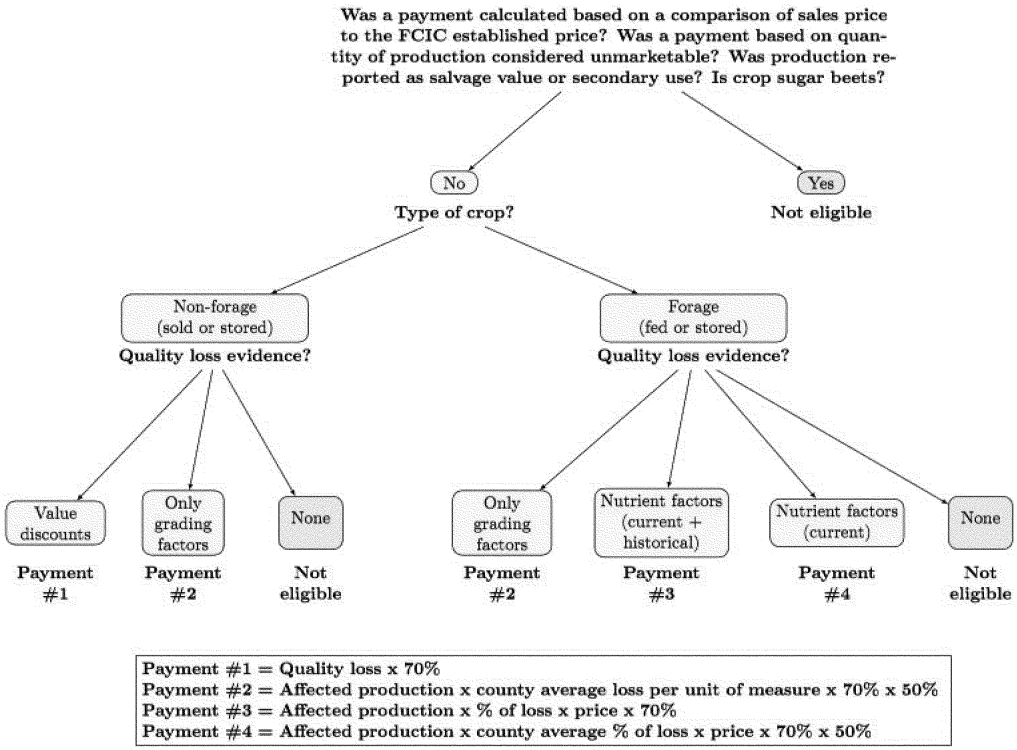
The QLA Program payment calculation depends on several factors, as shown in Figure 1. A producer is ineligible for a QLA Program payment if they received a crop insurance indemnity, NAP payment, or WHIP+ payment for a crop that was unmarketable, sold for salvage value or secondary use, or if the payment was based on a comparison of the sales price of the affected production and the applicable reference price. Otherwise, payments or benefits received under the Federal crop insurance, NAP or WHIP+ do not affect a producer's eligibility or payment received from the QLA Program. The payment calculation depends on the use of production (non-forage or forage) and evidence at hand of the crop quality loss. Producers who do not have evidence of the quality loss are ineligible.

[4] The addition of excessive moisture and certain drought conditions as qualifying causes of loss under WHIP+ is specific, not open to interpretation, and is therefore self-enacting. Accordingly, the provision was previously implemented. FSA began the sign-up period on March 23, 2020, and sign-up ended on October 30, 2020.

[5] Assistance for sugar beet losses for members of cooperative processors is provided through a separate program.

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Figure 1. Eligibility and Payment Calculation



Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA, Pub. L. 104–121), generally requires an agency to prepare a regulatory flexibility analysis of any rule whenever an agency is required by the Administrative Procedure Act or any other law to publish a proposed rule, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule is not subject to the Regulatory Flexibility Act because USDA is not required by Administrative Procedure Act or any law to publish a proposed rule for this rulemaking.

Environmental Review

The environmental impacts of this final rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and the FSA regulation for compliance with NEPA (7 CFR part 799). The legislative intent for implementing the QLA Program is to provide assistance to producers who suffered eligible crop quality losses due to hurricanes, excessive moisture, floods, drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.

While OMB has designated this rule as ''economically significant'' under Executive Order 12866, ''economic or social effects are not intended by themselves to require preparation of an environmental impact statement'' (see 40 CFR 1502.16(b)), when not interrelated to natural or physical environmental effects.

For this rule, the FSA Categorical Exclusions found in 7 CFR 799.31 apply, specifically 7 CFR 799.31(b)(6)(iii), (iv), and (vi) (that is, § 799.31(b)(6)(iii) Financial assistance to supplement income, manage the supply of agricultural commodities, or influence the cost or supply of such commodities or programs of a similar nature or intent (that is, price support programs); § 799.31(b)(6)(iv) Individual farm participation in FSA programs where no ground disturbance or change in land use occurs as a result of the proposed action or participation; and § 799.31(b)(6)(vi) Safety net programs administered by FSA). No Extraordinary Circumstances (7 CFR 799.33) exist.

For the outlined reasons, FSA has determined that the implementation of the QLA Program and the participation in the QLA Program does not constitute a major Federal action that would significantly affect the quality of the human environment, individually or cumulatively. Therefore, FSA will not prepare an environmental assessment or environmental impact statement for this regulatory action.

Executive Order 12372

Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' requires consultation with State and local officials that would be directly affect by proposed Federal financial assistance. The objectives of the Executive order are to foster an intergovernmental partnership and a strengthened federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance and direct Federal development. For reasons specified in the final rule related notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs and activities

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within this rule are excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, ''Civil Justice Reform.'' This rule will not preempt State or local laws, regulations, or policies unless they represent an irreconcilable conflict with this rule. The rule will not have retroactive effect. Before any judicial action may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR parts 11 and 780 must be exhausted.

Executive Order 13132

This rule has been reviewed under Executive Order 13132, ''Federalism.'' The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, except as required by law. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

The USDA's Office of Tribal Relations (OTR) has assessed the impact of this rule on Indian Tribes and determined that this rule may have significant Tribal implications that require ongoing adherence to Executive Order 13175. OTR notes that the programs are similar to programs that have been administered by FSA and RMA in the past; having not heard any concerns regarding the administration of these in the past, and the fact that provisions are mandated in the Disaster Relief Act, OTR recommended that consultation is not required at this time. Tribes can request consultation at any time. FSA will work with OTR to ensure meaningful consultation is provided where changes, additions, and modifications identified in this rule are not expressly mandated by law.

The Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104–4) requires Federal agencies to assess the effects of their regulatory actions on State local, and Tribal governments or the private sector. Agencies generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures of $100 million or more in any 1 year for State, local, or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates, as defined in Title II of UMRA, for State, local, and Tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, FSA submitted the QLA Program information collection request to OMB for emergency approval. OMB approved the 6-month emergency information collection.

E-Government Act Compliance

FSA is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Federal Assistance Programs

The titles and numbers of the Federal Domestic Assistance Program found in the Catalog of Federal Domestic Assistance to which this rule applies are:

10.129—Wildfire and Hurricanes Indemnity Program Plus
10.133—Quality Loss Adjustment Program

List of Subjects in 7 CFR Part 760

Dairy products, Indemnity payments, Reporting and recordkeeping requirements.

For the reasons discussed above, FSA amends 7 CFR part 760 as follows:

PART 760—INDEMNITY PAYMENT PROGRAMS

■ 1. Revise the authority citation for part 760 to read as follows:

Authority: 7 U.S.C. 4501 and 1531; 16 U.S.C. 3801, note; 19 U.S.C. 2497; Title III, Pub. L. 109–234, 120 Stat. 474; Title IX, Pub. L. 110–28, 121 Stat. 211; Sec. 748, Pub. L. 111–80, 123 Stat. 2131; Title I, Pub. L. 115–123, 132 Stat. 65; Title I, Pub. L. 116–20, 133 Stat. 871; and Division B, Title VII, Pub. L. 116–94, 133 Stat. 2658.

Subpart O—Agricultural Disaster Indemnity Programs

§ 760.1500 [Amended]

■ 2. In § 760.1500(c), remove the words ''and wildfires'' and add ''wildfires, excessive moisture, and qualifying drought'' in their place.

■ 3. Amend § 760.1502 as follows:

■ a. In the definition of ''Qualifying disaster event'', in paragraph (2) of remove the word ''wildfire'' and add ''wildfire, excessive moisture, qualifying drought'' in its place; and

■ b. Add the definitions of ''Qualifying drought'' and ''U.S. Drought Monitor'' in alphabetical order.

The additions read as follows:

§ 760.1502 Definitions.

* * * * *

Qualifying drought means an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year.

* * * * *

U.S. Drought Monitor is a system for classifying drought severity according to a range of abnormally dry to exceptional drought. It is a collaborative effort between Federal and academic partners, produced on a weekly basis, to synthesize multiple indices, outlooks, and drought impacts on a map and in narrative form. This synthesis of indices is reported by the National Drought Mitigation Center at *http://droughtmonitor.unl.edu.*

* * * * *

■ 4. In § 760.1503, add paragraph (j) to read as follows.

§ 760.1503 Eligibility.

* * * * *

(j) Members of cooperative processors are not eligible for WHIP+ assistance for sugar beet losses.

§ 760.1508 [Amended]

■ 5. Amend § 760.1508 as follows:

■ a. In paragraph (c), remove the cross reference ''paragraph (b)(1)'' and add the cross reference ''paragraph (b)'' in its place; and

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■ b. In paragraph (f), remove the cross reference ''paragraph (b)(1)'' and add cross reference ''paragraph (e)'' in its place.

§ 760.1510 [Amended]

■ 6. In § 760.1510(a), remove the words ''a date that will be announced by the Deputy Administrator'' and add ''October 30, 2020'' in their place.

§ 760.1511 [Amended]

■ 7. In § 760.1511(a)(6), remove the cross reference ''paragraph (f)'' and add cross reference ''paragraph (g)'' in its place.

■ 8. Add subpart R, consisting of §§ 760.1800 through 760.1814, to read as follows:

Subpart R—Quality Loss Adjustment Program

Sec.

760.1800 Applicability.
760.1801 Administration.
760.1802 Definitions.
760.1803 Participant eligibility.
760.1804 Eligibility of affected production.
760.1805 Qualifying disaster events.
760.1806 Ineligible losses.
760.1807 Miscellaneous provisions.
760.1808 General provisions.
760.1809 Payment and adjusted gross income limitation.
760.1810 Time and method of application.
760.1811 Required documentation and verification.
760.1812 Payment calculation.
760.1813 Availability of funds and timing of payments.
760.1814 Requirement to purchase crop insurance or NAP coverage.

§ 760.1800 Applicability.

This subpart specifies the terms and conditions for the Quality Loss Adjustment (QLA) Program. The QLA Program provides disaster assistance for crop quality losses that were a consequence of hurricanes, excessive moisture, floods, qualifying drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.

§ 760.1801 Administration.

(a) The QLA Program is administered under the general supervision of the Administrator, Farm Service Agency (FSA), and the Deputy Administrator for Farm Programs, FSA. The QLA Program is carried out by FSA State and county committees with instructions issued by the Deputy Administrator.

(b) FSA State and county committees, and representatives and their employees, do not have authority to modify or waive any of the provisions of the regulations in this subpart or instructions issued by the Deputy Administrator.

(c) The FSA State committee will take any action required by the regulations in this subpart that the FSA county committee has not taken. The FSA State committee will also:

(1) Correct, or require an FSA county committee to correct, any action taken by the FSA county committee that is not in accordance with the regulations in this subpart; or

(2) Require an FSA county committee to withhold taking any action that is not in accordance with this subpart.

(d) No delegation to an FSA State or county committee precludes the FSA Administrator or the Deputy Administrator from determining any question arising under this subpart or from reversing or modifying any determination made by an FSA State or county committee.

(e) The Deputy Administrator has the authority to:

(1) Permit State and county committees to waive or modify a non-statutory deadline specified in this subpart; and

(2) Delegate authority to FSA State or county committees to make determinations under § 760.1812(f) and (g).

(f) Items of general applicability to program participants, including, but not limited to, application periods, application deadlines, internal operating guidelines issued to FSA State and county offices, prices, and payment factors established under this subpart, are not subject to appeal in accordance with part 780 of this chapter.

§ 760.1802 Definitions.

The following definitions apply to this subpart. The definitions in §§ 718.2 and 1400.3 of this title also apply, except where they conflict with the definitions in this section. In the event of conflict, the definitions in this section apply.

Affected production means the producer's ownership share of harvested production of an eligible crop, adjusted to standard moisture as established by the U.S. Grains Standards Act, a State regulatory agency, or industry standard, that had both:

(1) A quality loss due to a qualifying disaster event; and

(2) At least a 5 percent quality loss due to all eligible disaster events.

Average market price means the average market price determined according to § 1437.12 of this title.

Coverage level means the percentage determined by multiplying the elected yield percentage under a crop insurance policy or NAP coverage by the elected price percentage.

Crop insurance means an insurance policy reinsured by FCIC under the provisions of the Federal Crop Insurance Act, as amended. It does not include private plans of insurance.

Crop insurance indemnity means, for the purpose of this subpart, the payment to a participant for crop losses covered under crop insurance administered by RMA in accordance with the Federal Crop Insurance Act (7 U.S.C. 1501–1524).

Crop year means:

(1) For insurable crops, the crop year as defined according to the applicable crop insurance policy; and

(2) For NAP-eligible crops, the crop year as defined in § 1437.3 of this title.

Eligible crop means a crop for which coverage was available either from FCIC under part 400 of this title, or through NAP under § 1437.4 of this title.

Eligible disaster event means a disaster event that is an eligible cause of loss specified in § 1437.10 of this title, excluding insect infestation.

FCIC means the Federal Crop Insurance Corporation, a wholly owned Government Corporation of USDA, administered by RMA.

FSA means the Farm Service Agency, an agency of USDA.

Grading factor means a factor that describes the physical condition or a feature that is evaluated to determine the quality of the production, such as broken kernels and low-test weight.

Good farming practices means the cultural practices generally recognized as compatible with agronomic and weather conditions and used for the crop to make normal progress toward maturity, as determined by FSA. These practices are:

(1) For conventional farming practices, those generally recognized by agricultural experts for the area, which could include one or more counties; or

(2) For organic farming practices, those generally recognized by the organic agricultural experts for the area or contained in the organic system plan that is in accordance with the National Organic Program specified in part 205 of this title.

Harvested means:

(1) For insurable crops, harvested as defined according to the applicable crop insurance policy;

(2) For NAP-eligible single harvest crops, that a crop has been removed from the field, either by hand or mechanically;

(3) For NAP-eligible crops with potential multiple harvests in 1 year or harvested over multiple years, that the producer has, by hand or mechanically, removed at least 1 mature crop from the field during the crop year; and

(4) For mechanically harvested NAP-eligible crops, that the crop has been

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removed from the field and placed in a truck or other conveyance, except hay is considered harvested when in the bale, whether removed from the field or not.

Insurable crop means an agricultural crop (excluding livestock) for which the producer on a farm is eligible to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501–1524).

Multiple market crop means a crop that is delivered to a single market but can have fresh and processed prices based on grading. For example, a producer may intend to sell all production of an apple crop as fresh production; however, based on grading of the crop at the market, the producer is compensated for some production at the fresh price and for some production at the processing price.

Multiple planting means the planting for harvest of the same crop in more than one planting period in a crop year on different acreage.

NAP means the Noninsured Crop Disaster Assistance Program under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) and part 1437 of this title.

NAP-eligible crop means an agricultural crop for which the producer on a farm is eligible to obtain NAP coverage.

NAP service fee means the amount specified in § 1437.7 of this title that the producer must pay to obtain NAP coverage.

Nutrient factor means a factor determined by a test that measures the nutrient value of a crop to be fed to livestock. Examples include, but are not limited to, relative feed value and total digestible nutrients.

Production means quantity of the crop produced, which is expressed in a specific unit of measure including, but not limited to, bushels or pounds.

QLA Program means the Quality Loss Adjustment Program.

Qualifying disaster event means a hurricane, flood, tornado, typhoon, volcanic activity, snowstorm, wildfire, excessive moisture, qualifying drought, or a related condition that occurred in the 2018 or 2019 calendar year.

Qualifying drought means an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year.

Quality loss means:

(1) For forage crops, a reduction in an applicable nutrient factor for the crop; and

(2) For crops other than forage, a reduction in the total dollar value of the crop due to reduction in the physical condition of the crop indicated by an applicable grading factor.

Related condition means damaging weather or an adverse natural occurrence that occurred as a direct result of a specified qualifying disaster event, such as excessive rain, high winds, flooding, mudslides, and heavy smoke, as determined by the Deputy Administrator. The term does not include insect infestation.

Reliable production record means evidence provided by the participant that is used to substantiate the amount of production reported when verifiable records are not available, including copies of receipts, ledgers of income, income statements of deposit slips, register tapes, invoices for custom harvesting, and records to verify production costs, contemporaneous measurements, truck scale tickets, and contemporaneous diaries that are determined acceptable by the FSA county committee. To determine whether the records are acceptable, the FSA county committee will consider whether they are consistent with the records of other producers of the crop in that area.

RMA means the Risk Management Agency, an agency of USDA.

Salvage value means the dollar amount or equivalent for the quantity of the commodity that cannot be marketed or sold in any recognized market for the crop.

Secondary use means the harvesting of a crop for a use other than the intended use.

Unit of measure means:

(1) For insurable crops, the FCIC-established unit of measure; and

(2) For NAP-eligible crops, the established unit of measure used for the NAP price and yield.

USDA means the U.S. Department of Agriculture.

U.S. Drought Monitor is a system for classifying drought severity according to a range of abnormally dry to exceptional drought. It is a collaborative effort between Federal and academic partners, produced on a weekly basis, to synthesize multiple indices, outlooks, and drought impacts on a map and in narrative form. This synthesis of indices is reported by the National Drought Mitigation Center at *http://droughtmonitor.unl.edu.*

Value loss crop has the meaning specified in subpart D of part 1437 of this title.

Verifiable documentation means evidence that can be verified by FSA through an independent source.

Verifiable percentage of loss is the percentage of loss determined by comparing the applicable nutrient factors for a producer's affected production of a forage crop with the average of such nutrient factors from the 3 preceding crop years, as documented on FSA–899, Historical Nutritional Value Weighted Average Worksheet.

WHIP+ means the Wildfires and Hurricanes Indemnity Program Plus under subpart O of this part.

§ 760.1803 Participant eligibility.

(a) Participants will be eligible to receive a payment under this subpart only if they incurred a loss to an eligible crop due to a qualifying disaster event, as further specified in this subpart.

(b) To be an eligible participant under this subpart, a person or legal entity must be a:

(1) Citizen of the United States;

(2) Resident alien; for purposes of this subpart, resident alien means ''lawful alien'' (see § 1400.3 of this title);

(3) Partnership consisting solely of citizens of the United States or resident aliens; or

(4) Corporation, limited liability company, or other similar organizational structure organized under State law consisting solely of citizens or resident aliens of the United States.

(c) If any person who would otherwise be eligible to receive a payment dies before the payment is received, payment may be released as specified in § 707.3 of this chapter. Similarly, if any person or legal entity who would otherwise have been eligible to apply for a payment dies or is dissolved, respectively, before the payment is applied for, payment may be released in accordance with this subpart if a timely application is filed by an authorized representative. Proof of authority to sign for the deceased producer or dissolved entity must be provided. If a participant is now a dissolved general partnership or joint venture, all members of the general partnership or joint venture at the time of dissolution or their duly authorized representatives must sign the application. Eligibility of such participant will be determined, as it is for other participants, based upon ownership share and risk in producing the crop.

(d) An ownership share is required to be eligible for a payment under this subpart. Growers growing eligible crops under contract for crop owners are not eligible for a payment under this subpart unless the grower is also determined to have an ownership share of the crop. Any verbal or written contract that precludes the grower from having an ownership share renders the

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grower ineligible for payments under this subpart.

(e) A person or legal entity is not eligible to receive assistance under this subpart if FSA determines that the person or legal entity:

(1) Adopted any scheme or other device that tends to defeat the purpose of this subpart or any of the regulations applicable to this subpart;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination under any or all of the following: This subpart and parts 12, 400, 1400, and 1437 of this title.

(f) A person who is ineligible for crop insurance or NAP under § 400.458 or § 1437.16 of this title, respectively, for any year is ineligible for payments under this subpart for the same year.

(g) The provisions of § 718.11 of this chapter, providing for ineligibility for payments for offenses involving controlled substances, apply.

(h) As a condition of eligibility to receive payments under this subpart, the participant must have been in compliance with the Highly Erodible Land Conservation and Wetland Conservation provisions of part 12 of this title for the applicable crop year for which the producer is applying for benefits under this subpart, and must not otherwise be precluded from receiving payments under part 12, 400, 1400, or 1437 of this title or any law.

§ 760.1804 Eligibility of affected production.

(a) To be eligible for the QLA Program, an eligible crop's affected production must have suffered a quality loss due to a qualifying disaster event and had at least a 5 percent quality loss due to all eligible disaster events. Whether affected production of a crop had a 5 percent loss will be determined separately for crops with different crop types, intended uses, certified organic or conventional status, county, and crop year.

(b) Affected production of the following is not eligible for the QLA Program:

(1) Crops that were not grown commercially;

(2) Crops that were intended for grazing or were grazed;

(3) Crops not intended for harvest;

(4) Volunteer crops;

(5) Value loss crops;

(6) Maple sap;

(7) Honey;

(8) By-products resulting from processing or harvesting a crop, such as, but not limited to, cotton seed, peanut shells, wheat or oat straw, or corn stalks or stovers;

(9) First-year seeding for forage production;

(10) Immature fruit crops;

(11) Crops for which FCIC coverage or NAP coverage is unavailable;

(12) Multiple market crops for which the producer previously received a crop insurance indemnity or WHIP+ payment for a quality loss;

(13) Crops for which production used to calculate a crop insurance indemnity or WHIP+ payment was adjusted based on a comparison of the producer's sale price to FCIC established price;

(14) Crops that received a crop insurance indemnity, NAP payment, or WHIP+ payment based on the quantity of production that was considered unmarketable;

(15) Crops for which the producer previously received a crop insurance indemnity, NAP payment, or WHIP+ payment for which production was reported as salvage value or secondary use;

(16) Sugar beets for which a member of a cooperative processor received a payment through a cooperative agreement; and

(17) Crops that were destroyed.

(c) Only affected production from initial crop acreage will be eligible for a QLA Program payment, unless the provisions for subsequent crops in this section are met. All plantings of an annual or biennial crop are considered the same as a planting of an initial crop in tropical regions as defined in part 1437, subpart F, of this title.

(d) In cases where there is double cropped acreage, affected production of each crop may be eligible only if the specific crops are approved by the FSA State committee as eligible double cropping practices in accordance with procedures approved by the Deputy Administrator.

(e) Participants having affected production from multiple plantings may receive payments for each planting only if the planting meets the requirements of part 1437 of this title and all other provisions of this subpart are satisfied.

§ 760.1805 Qualifying disaster events.

(a) A producer is eligible for payments under this subpart only if the producer's affected production of an eligible crop suffered a crop quality loss due to a qualifying disaster event.

(b) A crop quality loss due to a qualifying disaster event must have occurred on acreage that was physically located in a county that received a:

(1) Presidential Emergency Disaster Declaration authorizing public assistance for categories C through G or individual assistance due to a qualifying disaster event occurring in the 2018 or 2019 calendar years; or

(2) Secretarial Disaster Designation for a qualifying disaster event occurring in the 2018 or 2019 calendar years.

(c) A producer with a crop quality loss on acreage not physically located in a county that was eligible under paragraph (b) of this section will be eligible for the QLA Program for losses due to qualifying disaster events only if the producer provides supporting documentation from which the FSA county committee determines that the crop quality loss on the unit was reasonably related to a qualifying disaster event as specified in this subpart. Supporting documentation may include furnishing climatological data from a reputable source or other information substantiating the claim of loss due to a qualifying disaster event.

§ 760.1806 Ineligible losses.

(a) A loss is not eligible under this subpart if any of the following apply:

(1) The cause of loss is determined by FSA to be the result of poor management decisions, poor farming practices, or drifting herbicides;

(2) The loss could have been mitigated using good farming practices, including losses due to high moisture content that could be mitigated by following best practices for drying and storing the crop;

(3) The qualifying disaster event occurred after the crop was harvested;

(4) FSA or RMA have previously disapproved a notice of loss for the crop and disaster event, unless that notice of loss was disapproved solely because it was filed after the applicable deadline; or

(5) The cause of loss was due to:

(i) Conditions or events occurring outside of the applicable growing season for the crop;

(ii) Insect infestation;

(iii) Water contained or released by any governmental, public, or private dam or reservoir project if an easement exists on the acreage affected by the containment or release of the water;

(iv) Failure of a power supply or brownout; or

(v) Failure to harvest or market the crop due to lack of a sufficient plan or resources.

(b) [Reserved]

§ 760.1807 Miscellaneous provisions.

(a) All persons with a financial interest in a legal entity receiving payments under this subpart are jointly and severally liable for any refund, including related charges, that is determined to be due to FSA for any reason.

(b) In the event that any application under this subpart resulted from

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erroneous information or a miscalculation, the payment will be recalculated and any excess refunded to FSA with interest to be calculated from the date of the disbursement.

(c) Any payment to any participant under this subpart will be made without regard to questions of title under State law, and without regard to any claim or lien against the commodity, or proceeds, in favor of the owner or any other creditor except agencies of the U.S. Government. The regulations governing offsets and withholdings in part 3 of this chapter apply to payments made under this subpart.

(d) Any participant entitled to any payment may assign any payment(s) in accordance with regulations governing the assignment of payments in part 3 of this chapter.

(e) The regulations in parts 11 and 780 of this title apply to determinations under this subpart.

§ 760.1808 General provisions.

(a) Eligibility and payments under this subpart will be determined based on the county where the affected production was harvested.

(b) FSA county committees will make any necessary adjustments to the applicant's affected production and other information on the application form used to calculate a payment when the county committee determines:

(1) Additional documentation has been requested by FSA but has not been provided by the participant;

(2) The loss is due to an ineligible cause; or

(3) The participant has a contract providing a guaranteed payment for all or a portion of the crop.

(c) Unless otherwise specified, all eligibility provisions of part 1437 of this title also apply to tropical crops for eligibility under this subpart.

(d) FSA will use the most reliable data available at the time payments under this subpart are calculated. If additional data or information is provided or becomes available after a payment is issued, FSA will recalculate the payment amount and the producer must return any overpayment amount to FSA. In all cases, payments can only issue based on the payment formula for losses that affirmatively occurred.

(e) Production that is commingled between counties, crop years, or ineligible and eligible acres before it was a matter of record or combination of record and cannot be separated by using records or other means acceptable to FSA will be prorated to each respective year, county, or type of acreage, respectively.

§ 760.1809 Payment and adjusted gross income limitation.

(a) A person or legal entity, other than a joint venture or general partnership, is eligible to receive, directly or indirectly, payments of not more than $125,000 for each of the 2018, 2019, and 2020 crop years under this subpart.

(b) Payments made to a joint operation, including a joint venture or general partnership, cannot exceed the amount determined by multiplying the maximum payment amount specified in paragraph (a) of this section by the number of persons and legal entities, other than joint operations, that comprise the ownership of the joint operation.

(c) The direct attribution provisions in § 1400.105 of this title apply to payments under this subpart.

(d) The notification of interest provisions in § 1400.107 of this title apply to payments under this subpart.

(e) The provisions for recognizing persons added to a farming operation for payment limitation purposes as described in § 1400.104 of this title apply to payments under this subpart.

(f) The $900,000 average AGI limitation provisions in part 1400 of this title relating to limits on payments for persons or legal entities, excluding joint ventures and general partnerships, apply to each applicant for the QLA Program unless at least 75 percent of the person or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. A person's or legal entity's average AGI for each of the program years 2018, 2019 or 2020, is determined by using the average of the adjusted gross incomes for the 3 taxable years preceding the most immediately preceding taxable year. If the person's or legal entity's average AGI is below $900,000 or at least 75 percent of the person or legal entity's average AGI is derived from farming, ranching, or forestry-related activities, the person or legal entity, is eligible to receive payments under this subpart.

§ 760.1810 Time and method of application.

(a) A completed FSA–898, Quality Loss Adjustment (QLA) Program Application, must be submitted in person, by mail, email, or facsimile to any FSA county office by the close of business on March 5, 2020.

(b) An application submitted in accordance with paragraph (a) of this section is not considered valid and complete for issuance of payment under this subpart unless FSA determines all the applicable eligibility provisions have been satisfied and the producer has submitted all of following by March 19, 2020:

(1) Documentation required by § 760.1811;

(2) FSA–578, Report of Acreage, for all acreage for any crop for which payments under this subpart are requested;

(3) FSA–895, Crop Insurance and/or NAP Coverage Agreement; and

(4) For forage crops, FSA–899, Historical Nutritional Value Weighted Average Worksheet, if verifiable documentation of historical nutrient factors is available.

(c) In addition to the forms listed in paragraph (b) of this section, applicants must also submit all the following eligibility forms within 60 days from the date of signing the QLA Program application if not already on file with FSA:

(1) AD–1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation Certification;

(2) CCC–902 Automated, Farm Operating Plan for Payment Eligibility 2009 and Subsequent Program Years;

(3) CCC–941 Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information; and

(4) CCC–942 Certification of Income from Farming, Ranching and Forestry Operations, if applicable.

(d) Failure to submit all required forms by the applicable deadlines in paragraphs (b) and (c) of this section may result in no payment or a reduced payment.

(e) Application approval and payment by FSA does not relieve a participant from having to submit any form required, but not filed, according to this section.

(f) Once signed by a producer, the application is considered to contain information and certifications of and pertaining to the producer regardless of who entered the information on the application.

(g) The producer applying for payment under this subpart certifies the accuracy and truthfulness of the information provided in the application as well as any documentation filed with or in support of the application. All information is subject to verification or spot check by FSA at any time, either before or after payment is issued. Refusal to allow FSA or any agency of the USDA to verify any information provided will result in the participant's forfeiting eligibility for payment under this subpart. FSA may at any time, including before, during, or after processing and paying an application, require the producer to submit any additional information necessary to implement or determine any eligibility

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provision of this subpart. Furnishing information specified in this subpart is voluntary; however, FSA may choose not to act on the application or approve payment if the required information is not provided. Providing a false certification will result in ineligibility and can also be punishable by imprisonment, fines, and other penalties.

§ 760.1811 Required documentation and verification.

(a) If requested by FSA, an applicant must provide documentation that establishes the applicant's ownership share and value at risk in the crop.

(b) The applicant must provide acceptable documentation that is dated and contains all information required to substantiate the applicant's certification to the satisfaction of the FSA county committee. Verifiable documentation is required to substantiate the total dollar value loss and associated affected production, grading factors, and nutritional factors. FSA may verify the records with records on file at the warehouse, gin, or other entity that received or may have received the reported production. Reliable production records are required to substantiate the reported amount of affected production for applications not based on the total dollar value loss.

(c) To be considered acceptable, verifiable documentation for grain crops that were sold may come from any time between harvest and sale of the affected production, unless the FSA county committee determines the record is not representative of the condition within 30 days of harvest. For all other crops, the verifiable documentation must come from tests or analysis completed within 30 days of harvest, unless the FSA county committee determines that the record is representative of the condition of the affected production at time of harvest. Examples of acceptable records for purposes of this paragraph (c) include:

(1) Warehouse grading sheets;

(2) Settlement sheets;

(3) Sales receipts showing grade and price or disposition to secondary market due to quality; and

(4) Laboratory test results.

(d) For forage crops, producers must submit verifiable documentation showing the nutrient factors for the affected production. Producers must also submit verifiable documentation of the historical nutrient factors for the 3 preceding crop years if available. The nutrient factors that must be documented for a crop will determined by the FSA county committee based on the standard practice for the crop in that county.

(e) For all crops other than forage crops, producers must submit verifiable documentation of the total dollar value loss due to quality, if available, and verifiable documentation of grading factors due to quality.

(f) The participant is responsible for:

(1) Retaining, providing, and summarizing, at time of application and whenever required by FSA, the best available verifiable production records for the crop;

(2) Providing the information in a manner that can be easily understood by the FSA county committee; and

(3) Providing supporting documentation about the disaster event if the FSA county committee has reason to question the disaster event.

(e) Participants must provide all records for any production of a crop that is grown with an arrangement, agreement, or contract for guaranteed payment.

(f) Participants are required to retain documentation in support of their application for 3 years after the date of approval.

(g) Participants receiving QLA Program payments or any other person who furnishes such information to USDA must permit authorized representatives of USDA or the Government Accountability Office, during regular business hours, to enter the agricultural operation and to inspect, examine, and make copies of books, records, or other items for the purpose of confirming the accuracy of the information provided by the participant.

§ 760.1812 Payment calculation.

(a) Payments will be calculated separately for crops based on the crop type, intended use, certified organic or conventional status, county, and crop year.

(b) For forage crops with verifiable documentation of nutrient factors for the affected production and for the 3 preceding crop years, the payment will be equal to the producer's total affected production multiplied by the producer's verifiable percentage of loss, multiplied by the average market price, multiplied by 70 percent.

(c) For forage crops with verifiable documentation of nutrient factors for the affected production but not for the 3 preceding crop years, the payment will be equal to the producer's total affected production multiplied by the county average percentage of loss in paragraph (f) of this section, multiplied by the average market price, multiplied by 70 percent, multiplied by 50 percent.

(d) For crops other than forage with verifiable documentation of the total dollar value loss due to quality, the payment will be equal to the producer's total dollar value loss on the affected production, multiplied by 70 percent.

(e) For crops other than forage without verifiable documentation of the total dollar value loss but with verifiable documentation of grading factors, the payment will be equal to the producer's affected production multiplied by the county average loss per unit of measure in paragraph (g) of this section, multiplied by 70 percent, multiplied by 50 percent.

(f) The county average percentage of loss is the average percentage of loss from producers eligible for payment under paragraph (b) of this section if at least 5 producers in a county are eligible for payment for a crop under paragraph (b) of this section. If less than 5 producers in a county are eligible for payment for a crop under paragraph (b) of this section, the Deputy Administrator will:

(1) Determine a county average percentage of loss based on the best available data, including, but not limited to, evidence of losses in contiguous counties; or

(2) If a county average percentage of loss cannot be determined due to insufficient data, not issue payments to applicants under paragraph (c) of this section.

(g) The county average loss per unit of measure is based on the weighted average sales price from producers eligible for payment under paragraph (d) of this section if at least 5 producers in a county are eligible for payment for a crop under paragraph (d) of this section. If less than 5 producers are eligible for payment in a county under paragraph (d) of this section, the Deputy Administrator will:

(1) Determine a county average loss per unit of measure based on the best available data, including, but not limited to, evidence of losses in contiguous counties; or

(2) If a county average loss per unit of measure cannot be determined due to insufficient data, not issue payments to applicants under paragraph (e) of this section.

§ 760.1813 Availability of funds and timing of payments.

(a) Payments will be issued after the application period has ended and all applications have been reviewed by FSA.

(b) In the event that, within the limits of the funding made available by the Secretary, approval of eligible applications would result in payments

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in excess of the amount available, FSA will prorate payments by a national factor to reduce the payments to an amount that is less than available funds as determined by the Secretary.

(c) Applications and claims that are unpaid or prorated for any reason will not be carried forward for payment under other funds for later years or otherwise, but will be considered, as to any unpaid amount, void and nonpayable.

§ 760.1814 Requirement to purchase crop insurance or NAP coverage.

(a) For the first 2 consecutive crop years for which crop insurance or NAP coverage is available after the enrollment period for the QLA Program ends, a participant who receives payment under this subpart for a crop loss in a county must obtain:

(1) For an insurable crop, crop insurance with at least a 60 percent coverage level for that crop in that county; or

(2) For a NAP-eligible crop, NAP coverage with a coverage level of 60 percent.

(b) Participants who exceed the average adjusted gross income limitation for NAP payment eligibility [1] for the applicable crop year may meet the purchase requirement specified in paragraph (a)(2) of this section by purchasing Whole-Farm Revenue Protection crop insurance coverage, if eligible, or paying the NAP service fee and premium even though the participant will not be eligible to receive a NAP payment due to the average adjusted gross income limit.

(c) The final crop year to purchase crop insurance or NAP coverage to meet the requirements of paragraph (a) of this section is the 2023 crop year.

(d) A participant who obtained crop insurance or NAP coverage for the crop in accordance with the requirements for WHIP+ in § 760.1517 is considered to have met the requirement to purchase crop insurance or NAP coverage for the QLA Program.

(e) If a producer fails to obtain crop insurance or NAP coverage as required in this section, the producer must reimburse FSA for the full amount of QLA Program payment plus interest. A producer will only be considered to have obtained NAP coverage for the purposes of this section if the participant submitted a NAP application for coverage and paid the requisite NAP service fee and any applicable premium by the applicable deadline and completed all program requirements required under the coverage agreement, including filing an acreage report.

Richard Fordyce,

Administrator, Farm Service Agency.

[FR Doc. 2020–28914 Filed 1–5–21; 8:45 am]

BILLING CODE 3410–05–P

[1] See §§ 1400.500(a) and 1400.1(a)(4) of this title.

DEPARTMENT OF ENERGY

10 CFR Part 1061

RIN 1990–AA50

Procedures for the Issuance of Guidance Documents

AGENCY: Office of the General Counsel, Department of Energy.

ACTION: Final rule.

SUMMARY: The U.S. Department of Energy (DOE) publishes this final rule to establish procedures for the issuance of DOE guidance documents in accordance with Executive Order 13891. In this final rule, DOE establishes internal agency requirements for the contents of guidance documents, and procedures for providing notice of, and soliciting public comment on, certain guidance documents. This final rule also establishes procedures for the public to petition DOE to modify or withdraw guidance documents.

DATES: The effective date of this rule is February 5, 2021.

ADDRESSES: The docket for this rulemaking, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *https://www.regulations.gov*. All documents in the docket are listed in the *https://www.regulations.gov* index. However, not all documents listed in the index, such as those containing information that is exempt from public disclosure by law, may be publicly available. A link to the docket web page can be found at *https://www.regulations.gov/document?D=DOE-HQ-2020-0033-0001*. The docket web page explains how to access all documents, including public comments, in the docket.

FOR FURTHER INFORMATION CONTACT: Mr. Matthew Ring, U.S. Department of Energy, Office of the General Counsel, Forrestal Building, GC–33, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–2555, Email: *Guidance@hq.doe.gov*.

SUPPLEMENTARY INFORMATION:

I. Summary of Final Rule

In this final rule, DOE incorporates into the Code of Federal Regulations a new 10 CFR part 1061, which implements the requirements of Executive Order 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents.'' (84 FR 55235 (Oct. 15, 2019)) Among other things, Executive Order 13891 requires agencies to provide more transparency for their guidance documents by creating a searchable online database for current guidance documents,[1] and by establishing procedures to allow the public to comment on significant guidance documents and to petition the agency to withdraw or modify guidance documents.[2] Moreover, the Executive Order requires agencies to clearly state in their guidance documents that such guidance does not have the force and effect of law and is not legally binding, except as authorized by law or as incorporated into a contract. (84 FR 55235, 55237)

This final rule applies to all DOE guidance documents, as defined by Executive Order 13891, including the exceptions listed in section 2 of the Executive Order. This final rule also lists specific types of documents and communications that fall within the broader exceptions listed in the Executive Order (*e.g.,* speeches and presentations given by DOE officials, legal positions taken in litigation or enforcement actions). (See also OMB M–20–02, Guidance Implementing Executive Order 13891, Titled ''Promoting the Rule of Law Through Improved Agency Guidance Documents'' (Oct. 31, 2019), available at *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*). This final rule also adopts the same definition of ''significant guidance document'' as section 2 of Executive Order 13891.

In accordance with Executive Order 13891, this final rule requires that all DOE guidance documents clearly state that they do not have the force and effect of law and are not legally binding on the public, and that they are only intended to provide clarity to the public

[1] DOE's online database may be found at *energy.gov/guidance*.

[2] Executive Order 13891 defines ''significant guidance document'' as ''a guidance document that may reasonably be anticipated to: (i) Lead to an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (ii) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (iii) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (iv) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles of Executive Order 12866.'' (84 FR 55235, 55236)

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An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

Elizabeth K. Appel,

Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2021–00317 Filed 1–8–21; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–OIA–31249; PIN00IO14.XI0000]

U.S. Nominations to the World Heritage List; 15-Day Notice of Opportunity for Public Comment

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: This notice requests public comment on the next potential U.S. nominations from the U.S. World Heritage Tentative List (''Tentative List'') to the United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage List. The public may also make suggestions for future additions to the Tentative List. This notice complies with applicable World Heritage Program regulations.

DATES: Comments will be accepted on or before January 26, 2021.

ADDRESSES: You may submit comments by either of the following methods:

- *Mail to:* Jonathan Putnam, Office of International Affairs, National Park Service, 1849 C Street NW, Washington, DC 20240.
- *Email to: jonathan_putnam@nps.gov*. Phone: (202) 354–1809.

Comments will not be accepted in any way other than those specified above.

Information on the U.S. World Heritage program can be found at: *https://www.nps.gov/subjects/internationalcooperation/worldheritage.htm*.

To request a paper copy of the U.S Tentative List, please contact April Brooks, Office of International Affairs, National Park Service, 1849 C Street NW, Room 2415, Washington, DC 20240 (202) 354–1808, or Email: *april_brooks@nps.gov*.

FOR FURTHER INFORMATION CONTACT: Jonathan Putnam, (202) 354–1809.

For the World Heritage nomination format, see the World Heritage Centre website at: *http://whc.unesco.org/en/nominations*.

SUPPLEMENTARY INFORMATION:

Background

The World Heritage List is an international list of cultural and natural properties nominated by the signatories to the World Heritage Convention (1972), an international treaty for the preservation of natural and cultural heritage sites of global significance. U.S. participation and the roles of the Department of the Interior and the National Park Service are authorized by Title IV of the Historic Preservation Act Amendments of 1980 and conducted in accordance with 36 CFR part 73—World Heritage Convention. The National Park Service serves as the principal technical agency for the U.S. Government to the Convention.

A Tentative List is a national list of natural and cultural properties appearing to meet the World Heritage Committee eligibility criteria for nomination to the World Heritage List. It is a list of candidate sites which a country may consider for nomination within a given time period, but does not guarantee future nomination. The World Heritage Committee's *Operational Guidelines* ask participating nations to provide Tentative Lists, which aid in evaluating properties for the World Heritage List on a comparative international basis and help the Committee to schedule its work over the long term. A country cannot nominate a property unless it has been on its Tentative List for a minimum of a year. Countries also are limited at this time to nominating no more than one site in any given year.

Neither inclusion in the Tentative List nor inscription as a World Heritage Site imposes legal restrictions on owners or neighbors of sites, nor does it give the United Nations any management authority or ownership rights in U.S. World Heritage Sites, which continue to be subject to U.S. laws.

Current U.S. World Heritage Tentative List

The current U.S. World Heritage Tentative List includes the following properties:

Cultural Sites

Civil Rights Movement Sites, Alabama [other properties would be added for a complete nomination]

—Dexter Avenue King Memorial Baptist Church, Montgomery
—Bethel Baptist Church, Birmingham
—16th Street Baptist Church, Birmingham

Dayton Aviation Sites, Ohio

—Dayton Aviation Heritage National Historical Park

Hopewell Ceremonial Earthworks, Ohio

—Fort Ancient State Memorial, Warren County
—Hopewell Culture National Historical Park, near Chillicothe
—Newark Earthworks State Historic Site, Newark and Heath

Jefferson (Thomas) Buildings, Virginia (Proposed Jointly as an Extension to the World Heritage Listing of Monticello and the University of Virginia Historic District)

—Poplar Forest, Bedford County
—Virginia State Capitol, Richmond

Mount Vernon, Virginia

Serpent Mound, Ohio

Ellis Island, New Jersey and New York

Chicago Early Skyscrapers, Illinois, including: [Other Properties May Be Added in the Course of Developing a Nomination]

—Rookery
—Auditorium Building
—Monadnock Building
—Ludington Building
—Marquette Building
—Old Colony Building
—Schlesinger & Mayer (Carson, Pirie Scott) Department Store
—Second Leiter Building
—Fisher Building

Central Park, New York

Brooklyn Bridge, New York

Moravian Bethlehem District, Pennsylvania

Natural Sites

National Marine Sanctuary of American Samoa (Formerly Fagatele Bay National Marine Sanctuary, American Samoa)

Okefenokee National Wildlife Refuge, Georgia

Petrified Forest National Park, Arizona

White Sands National Monument, New Mexico

Marianas Trench National Monument, U.S. Territory, Commonwealth of the Northern Mariana Islands, Guam

Central California Current, California, Including

—Cordell Bank National Marine Sanctuary
—Monterey Bay National Marine Sanctuary
—Greater Farallones National Marine Sanctuary
—Farallon Islands National Wildlife Refuge

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NM-OTERO-21-0275-A-000462

—Point Reyes National Seashore
—Golden Gate National Recreation Area

Big Bend National Park, Texas

Pacific Remote Islands National Monument, U.S. Territorial Waters

Notes: (1) A nomination for the Hopewell Ceremonial Earthworks was authorized for preparation in May 2018 by the Department of the Interior and is now under development. (2) The Department has requested and is now awaiting advice from the International Council on Monuments and Sites (ICOMOS) on adding other properties to the proposal for the Civil Rights Movement Sites and its overall justification. (3) The government of the German state of Saxony is proposing an extension to the World Heritage listing of Christiansfeld, a Moravian Church Settlement in Denmark, that would include Herrnhut in Germany, the Moravian Bethlehem District in Bethlehem, Pennsylvania, and potentially other historic Moravian settlements in other countries.

Request for Public Comments

Comments on whether to authorize the preparation of a World Heritage nomination for any of the properties on the Tentative List should address the readiness and ability of the property owner(s) to prepare a satisfactory nomination document. Suggestions for additions to the Tentative List not previously submitted must address: (i) How the property(ies) would meet the World Heritage nomination criteria, requirements for authenticity, integrity, legal protection and management. Information on these criteria and requirements can be found on the website noted in the **FOR FURTHER INFORMATION CONTACT** section of this notice; and (ii) The U.S. legal prerequisites that include the agreement of all property owners to the nomination of their property, an official determination that the property is nationally significant (such as by designation as a National Historic or National Natural Landmark), and effective legal protection. All previous suggestions for the Tentative List made during previous comment periods or otherwise submitted since 2008, have been retained and considered and should not be resubmitted at this time.

Selection and Nomination

All public comments will be summarized and provided to Department of the Interior officials, who will obtain the advice of the Federal Interagency Panel for World Heritage before making any selection of properties for authorization to prepare a World Heritage nomination. The selection may include relevant factors, such as the likelihood of being able to complete a satisfactory nomination, and the fact that the United States is currently prohibited by law from providing any funding to UNESCO, including UNESCO and World Heritage member dues. Once authorized, the property owners may prepare a draft nomination.

The Department does not have a fixed schedule for completing or submitting World Heritage nominations. No more than one nomination from any country may be submitted per year, per the UNESCO World Heritage *Operational Guidelines.* Completed nominations, if approved by the Department for submission, may be submitted to the UNESCO World Heritage Centre by February 1 of any year.

Public Availability of Comments

All comments will be a matter of public record. Before including an address, phone number, email address, or other personal identifying information in a comment, members of the public should be aware that the entire comment—including personal identifying information—may be made public at any time. While commenters can request that personal identifying information be withheld from public review, it may not be possible to comply with this request.

Authority: 54 U.S.C. 307101; 36 CFR part 73.

George Wallace,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2021–00310 Filed 1–8–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#-31331; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before December 25, 2020, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by January 26, 2021.

ADDRESSES: Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line ''Public Comment on property or proposed district name, (County) State.'' If you have no access to email you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before December 25, 2020. Pursuant to Section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State or Tribal Historic Preservation Officers:

CALIFORNIA

Orange County

Johnson, Hugh Edgar, House, 444 W. Brookdale Pl., Fullerton, SG100006089

FLORIDA

Monroe County

Matecumbe Methodist Church Cemetery, 81801 Overseas Hwy., Islamorada, SG100006117

Pinellas County

House at 827 Mandalay Avenue, 827 Mandalay Ave., Clearwater, SG100006118

Sumter County

Wild Cow Prairie Cemetery, 5822 Cty. Rd. 673, Bushnell vicinity, SG100006119

Volusia County

Wright, James W., Building, 258 West Voorhis Ave., DeLand, SG100006120

Walton County

Herman Lodge No. 108 Free & Accepted Masons of Florida, 314 Madison St., Freeport, SG100006121

ILLINOIS

Cook County

Irving, James B., House, 2771 Crawford Ave., Evanston, SG100006102

AMERICAN OVERSIGHT

From: Jonna Lou Schafer <boredwell@dellcity.com>
Sent: Monday, January 11, 2021 9:20 PM EST
To: Couy Griffin <cgriffin@co.otero.nm.us>; Gerald Matherly <gmatherly@co.otero.nm.us>; Vickie Marquardt <vmarquardt@co.otero.nm.us>
CC: Pamela Heltner <pheltner@co.otero.nm.us>; Brian Muise <b.k.muise@gmail.com>; Gary Scarbrough <gary@dellcity.com>; Henerietta Stockel <hstockel@tularosa.net>; Jeff Stephan <pc1chap.nm@gmail.com>; Jeff Stephen <casadeosos.jeff@gmail.com>; Judy Medeiros <judymedeiros@msn.com>; Schafer <boredwell@dellcity.com>; Sidney Gordon <sgordon@nmsu.edu>; Twyla Lewis <tflewis@pvtn.net>; Walt Coffman <walt@pvtnetworks.net>
Subject: Fw: Linebery weekly email (federal register)
Attachment(s): "2020-28879.pdf","2020-28881.pdf","2020-28914.pdf","2021-00310.pdf"

FYI

From: Nicholas Ashcroft
Sent: Monday, January 11, 2021 7:03 PM
To:
Subject: Linebery weekly email (federal register)

2020-28879 - Council on Environmental Quality. Notice of online portal for agency guidance documents.

2020-28881- Council on Environmental Quality. Final rule.

2020-28914- Agricultural Disaster Indemnity Programs: Farm Service Agency (FSA), Department of Agriculture (USDA). Final rule.

2021-00310- U.S. Nominations to the World Heritage List; 15-Day Notice of Opportunity for Public Comment: National Park Service, Interior.

Nick Ashcroft
Natural Resource Policy Analyst
Linebery Policy Center for Natural Resource Management

nashcrof@nmsu.edu
575-646-5508 (office)

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7910–00–685–6660—Pad, Machine, Scrubbing, Floor, 17″ x ¼″
7910–00–685–6671—Pad, Machine, Polishing, Floor, 15″ x ¼″
7910–00–685–6672—Pad, Machine, Polishing, Floor, 17″ x ¼″
7910–00–685–6686—Pad, Machine, Polishing, Floor, 12″ x ¼″
7910–00–685–6687—Pad, Machine, Polishing, Floor, 13″ x ¼″
7910–00–820–7989—Pad, Floor, Buffing, Nylon, Tan, 15″
7910–00–NIB–0006—Pad, Floor, Burnishing, Animal Hair, Gray, 17″
7910–00–NIB–0009—Pad, Floor, Burnishing, Animal Hair, Gray, 21″
7910–00–NIB–0016—Pad, Floor, Polishing, Animal Hair, Beige, 17″
7910–00–NIB–0029—Pad, Floor, Buffing, Polyester, Red, 14″
7910–00–NIB–0030—Pad, Floor, Buffing, Polyester, Red, 15″
7910–00–NIB–0034—Pad, Floor, Scrubbing, Polyester, Blue, 14″
7910–00–NIB–0040—Pad, Floor, Scrubbing, Polyester, Blue, 21″
7910–01–512–5933—Pad, Floor, Stripping, Polyester, Brown, 17″
7910–01–512–5937—Pad, Floor, Scrubbing, Polyester, Blue, 13″
7910–01–512–5950—Pad, Floor, Scrubbing, Polyester, Blue, 17″

Designated Source of Supply: Beacon Lighthouse, Inc., Wichita Falls, TX
Contracting Activity: GSA/FSS Greater Southwest ACQUISITI, Fort Worth, TX

Michael R. Jurkowski,

Deputy Director, Business & PL Operations.

[FR Doc. 2021–00151 Filed 1–7–21; 8:45 am]

BILLING CODE 6353–01–P

COUNCIL ON ENVIRONMENTAL QUALITY

Guidance Document Online Portal

AGENCY: Council on Environmental Quality.

ACTION: Notice of online portal for agency guidance documents.

SUMMARY: In accordance with Executive Order (E.O.) 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' dated October 9, 2019, and Office of Management and Budget (OMB) Memorandum M–20–02, dated October 31, 2019, the Council on Environmental Quality (CEQ) is providing notice of where the public may access CEQ guidance documents.

ADDRESSES: The portal may be found at *https://www.whitehouse.gov/ceq/resources/*.

FOR FURTHER INFORMATION CONTACT: Amy B. Coyle, Deputy General Counsel, Council on Environmental Quality, 730 Jackson Place NW, Washington, DC 20503, 202–395–5750, *amy.b.coyle@ceq.eop.gov*.

SUPPLEMENTARY INFORMATION: E.O. 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' [1] requires that each agency establish or maintain on its website a single, searchable, indexed database that contains or links to all agency guidance documents [2] in effect. In accordance with E.O. 13891 and OMB's implementing guidance, set forth in OMB Memorandum M–20–02,[3] CEQ has complied with this requirement through its website portal, which is available to the public at *whitehouse.gov/ceq/resources*.[4] As required by E.O. 13891, the website also reiterates that: (1) The contents of the guidance documents accessed through the portal lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract; and (2) these documents are intended only to provide clarity to the public regarding existing requirements under statutes and regulations administered by CEQ. Under the E.O., CEQ may not cite, use, or rely on any guidance document that is not posted on or linked to the website portal, except to establish historical facts.

CEQ will also include on its website portal a link to its final rule establishing CEQ's internal agency procedures for issuing guidance documents, required by section 4 of E.O. 13891. The final rule relating to CEQ's guidance document procedures is published elsewhere in this issue of the **Federal Register**.

Authority: 42 U.S.C. 4321–4347; 42 U.S.C. 4371–4375; and E.O. 13891, 84 FR 55235.

Mary B. Neumayr,

Chairman.

[FR Doc. 2020–28879 Filed 1–7–21; 8:45 am]

BILLING CODE 3125–F1–P

[1] 84 FR 55235 (Oct. 15, 2019).

[2] E.O. 13891 defines ''guidance document'' as ''an agency statement of general applicability, intended to have future effect on the behavior of regulated parties, that sets forth a policy on a statutory, regulatory, or technical issue, or an interpretation of a statute or regulation. . . .'' *Id.*

[3] OMB issued its guidance memorandum on October 31, 2019. *See* M–20–02, Guidance Implementing Executive Order 13891, Titled ''Promoting the Rule of Law Through Improved Agency Guidance Documents'' (Oct. 31, 2019), *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*.

[4] CEQ's website portal at *https://www.whitehouse.gov/ceq/resources/* includes links to CEQ guidance documents and resources, some of which are provided on nepa.gov (*https://www.energy.gov/nepa/ceq-guidance-documents*) and sustainability.gov (*https://www.sustainability.gov/resources.html*).

DEPARTMENT OF EDUCATION

[Docket No. ED–2020–SCC–0167]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before February 8, 2021.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Find this information collection request by selecting ''Department of Education'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox. Comments may also be sent to *ICDocketmgr@ed.gov*.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, (202) 377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note

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PART 220—[REMOVED]

■ Accordingly, for the reasons stated in the preamble and under the authority of 5 U.S.C. 301, the Corps removes 33 CFR part 220.

R.D. James,

Assistant Secretary of the Army (Civil Works).

[FR Doc. 2020–27908 Filed 1–7–21; 8:45 am]

BILLING CODE 3720–58–P

COUNCIL ON ENVIRONMENTAL QUALITY

40 CFR Part 1519

RIN 0331–AA04

Guidance Document Procedures

AGENCY: Council on Environmental Quality.

ACTION: Final rule.

SUMMARY: Pursuant to Executive Order (E.O.) 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' this final rule establishes the process that the Council on Environmental Quality (CEQ) will follow for issuing guidance documents. E.O. 13891 requires Federal agencies to finalize regulations or amend existing regulations to establish processes and procedures for issuing guidance documents.

DATES: This rule is effective January 8, 2021.

FOR FURTHER INFORMATION CONTACT: Amy B. Coyle, Deputy General Counsel, Council on Environmental Quality, 730 Jackson Place NW, Washington, DC 20503, (202) 395–5750, *amy.b.coyle@ceq.eop.gov*.

SUPPLEMENTARY INFORMATION:

On October 9, 2019, President Trump issued E.O. 13891,[1] which addresses the development, use, and public availability of agency guidance documents. It requires agencies to promulgate or update existing regulations setting forth their procedures for issuing guidance documents. In accordance with section 6 of E.O. 13891, on October 31, 2019, the Office of Management and Budget (OMB) issued memorandum M–20–02, ''Guidance Implementing Executive Order 13891, Titled 'Promoting the Rule of Law Through Improved Agency Guidance Documents' '' (OMB M–20–02)[2] to provide guidance and implement the Executive order. OMB M–20–02 provides agencies with additional instruction on how to implement E.O. 13891, including the required rulemaking.

I. Summary of Final Rule

In this final rule, CEQ adds a new part 1519 to the Code of Federal Regulations to set out its procedures for the development and issuance of guidance documents consistent with the direction and reflecting the policies described in E.O. 13891 and OMB M–20–02.

A. Section 1519.1, ''Purpose''

Section 1519.1, ''Purpose,'' states that the purpose of part 1519 is to implement E.O. 13891, and explains CEQ's process for developing and issuing guidance.

B. Section 1519.2, ''Guidance Document Procedures''

Section 1519.2, ''Guidance document procedures,'' defines ''guidance documents'' in paragraph (a) and describes documents that do not meet that definition in paragraph (b), consistent with section 2(b)[3] of the E.O. and Q2 of OMB M–20–02.

Paragraph (c) of § 1519.2 lists the minimum requirements for any document meeting the definition of a guidance document consistent with Q22 of OMB M–20–02, including a title, unique identification number, date, indication of whether it revises or replaces prior guidance, summaries, and legal citations. Additionally, consistent with section 4(i) of E.O. 13891, paragraph (c)(6) includes a requirement that each guidance document clearly state that it does not bind the public, except as authorized by law or as incorporated into a contract.

Paragraph (c)(11) of § 1519.2 specifies that any guidance document must be posted on CEQ's website. E.O. 13891 also directed Federal agencies to make guidance documents publicly available in an indexed, searchable database online. As described in the **Federal Register** notice published today, CEQ has complied with this requirement through its website *whitehouse.gov/ceq/resources*.[4] As noted on this website, CEQ may not cite, use, or rely on any guidance that is not posted on its web pages except to establish historical facts. CEQ also makes clear that CEQ's guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract.

Finally, paragraph (d) of § 1519.2 requires the CEQ Office of the General Counsel to review and clear all guidance documents before CEQ issues them.

C. Section 1519.3, ''Procedures for the Public To Request Withdrawal or Modification of a Guidance Document''

Consistent with section 4(ii) of E.O. 13891, § 1519.3, ''Procedures for the public to request withdrawal or modification of a guidance document,'' addresses the process for members of the public to petition CEQ to withdraw or modify a particular guidance document, including designation of the Office of the General Counsel as the office within CEQ to which the public should direct such petitions. CEQ intends to provide additional instructions on its guidance website, including appropriate contact information and format of the petitions.

D. Section 1519.4, ''Significant Guidance Documents''

Finally, § 1519.4, ''Significant guidance documents,'' addresses specific requirements for a subset of ''guidance documents'' that are ''significant guidance documents'' as defined by section 2(c) of E.O. 13891. Paragraph (a) sets forth that definition. OMB's Office of Information and Regulatory Affairs (OIRA) makes the final determination of whether a guidance document is significant. If OIRA makes such a determination for a particular guidance document, this section will also apply. Consistent with section 4(iii) of E.O. 13891, paragraph (b) sets forth procedural requirements, including public notice and comment for at least 30 days, unless an exception applies; public response to major concerns raised in comments; approval on a non-delegable basis by the Chairman, or an official acting as Chairman; review by OIRA under Executive Order 12866; and compliance with the applicable requirements for regulations or rules.

II. Rulemaking Analyses and Notices

A. Regulatory Procedures

Under the Administrative Procedure Act, an agency may waive notice and comment procedures if an action is an interpretative rule, a general statement of policy, or a rule of agency organization, procedure, or practice. *See* 5 U.S.C. 553(b)(A). This rule describes the internal process that CEQ will follow to comply with the requirements specified in E.O. 13891 when issuing guidance documents as defined by the

[1] 84 FR 55235 (Oct. 15, 2019).

[2] OMB M–20–02 is available at *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*.

[3] E.O. 13891 section 2(b) lists the following as exclusions to the definition of guidance document. 84 FR at 55235–36.

[4] CEQ's website, *whitehouse.gov/ceq/resources*, includes links to CEQ guidance documents and resources, some of which are provided on *nepa.gov* and *sustainability.gov*.

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E.O. Because this rule is one of agency organization, procedure, or practice, it is exempt from the requirement to provide prior notice and opportunity for public comment.

B. Regulatory Planning and Review (E.O. 12866 and E.O. 13563)

E.O. 12866 provides that OIRA will review all significant rules. E.O. 13563 reaffirms the principles of E.O. 12866, calling for improvements in the Federal government's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory objectives. OMB determined that this final rule does not meet the requirements for a significant regulatory action under E.O. 12866, as supplemented by E.O. 13563, and therefore it was not subject to review.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, as amended (RFA), 5 U.S.C. 601 *et seq.,* and E.O. 13272 do not apply to this rulemaking because it is not subject to the notice and comment requirements of 5 U.S.C. 553(b).

D. Unfunded Mandates Reform Act

A statement containing the information required by the Unfunded Mandates Reform Act, 2 U.S.C. 1531 *et seq.,* is not required. This rule will not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year, and it will not have a significant or unique effect on State, local, or Tribal governments, or the private sector.

E. Reducing Regulation and Controlling Regulatory Costs (E.O. 13771)

This rule is not an E.O. 13771 regulatory action because this rule is not significant under E.O. 12866.

F. Federalism (E.O. 13132)

Under the criteria in section 1 of E.O. 13132, this rule will not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement because it will not substantially and directly affect the relationship between the Federal and State governments.

G. National Environmental Policy Act

The purpose of this rulemaking is to formalize the CEQ's administrative procedures for issuing guidance documents, as required by E.O. 13891. CEQ has determined that the final rule is a non-major Federal action under the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.,* and would not have any effect on the environment because it merely outlines internal CEQ administrative procedures and does not authorize any activity or commit resources to a project that may affect the environment.

H. Paperwork Reduction Act

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This rule will not impose recordkeeping or reporting requirements on State, local, or Tribal governments, individuals, businesses, or organizations.

List of Subjects in 40 CFR Part 1519

Administrative practice and procedure, Guidance.

Mary B. Neumayr,
Chairman.

■ For the reasons stated in the preamble, the Council on Environmental Quality adds 40 CFR part 1519 as follows:

PART 1519—GUIDANCE DOCUMENTS

Sec.
1519.1 Purpose.
1519.2 Guidance document procedures.
1519.3 Procedures for the public to request withdrawal or modification of a guidance document.
1519.4 Significant guidance documents.

Authority: 42 U.S.C. 4321–4347; 42 U.S.C. 4371–4375; and E.O. 13891, 84 FR 55235.

§ 1519.1 Purpose.

(a) This part implements Executive Order 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' and reflects the policies described in that order. The provisions in this part address the Council on Environmental Quality's procedures for the development and issuance of agency guidance documents. This part explains what constitutes guidance documents, and sets forth the minimum requirements for guidance documents, the procedures to request withdrawal or modification of guidance documents, and the additional requirements and procedures for significant guidance documents.

(b) This part is intended to improve the internal management of the Council on Environmental Quality. It is not intended to and does not create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its agencies or other entities, its officers or employees, or any other person.

(c) If Executive Order 13891 or any provision thereof is rescinded or superseded, this part remains in effect.

§ 1519.2 Guidance document procedures.

(a) *Definition of guidance documents.* For purposes of this part, guidance documents are agency statements of general applicability, intended to have future effect on the behavior of regulated parties, that set forth a policy on a statutory, regulatory, or technical issue, or an interpretation of a statute or regulation.

(b) *Documents excluded from the definition of guidance documents.* Guidance documents do not include:

(1) Agency statements of specific, rather than general, applicability.

(2) Agency statements that do not set forth a policy on a statutory, regulatory, or technical issue or an interpretation of a statute or regulation.

(3) Legislative rules promulgated under 5 U.S.C. 553 (or similar statutory provisions), or exempt from rulemaking requirements under 5 U.S.C. 553(a).

(4) Rules of agency organization, procedure, or practice that are not anticipated to have substantial future effect on the behavior of regulated parties or the public.

(5) Decisions of agency adjudication.

(6) Documents or agency statements that are directed solely to the Council on Environmental Quality or other agencies (or personnel of such agencies) that are not anticipated to have substantial future effect on the behavior of regulated parties or the public.

(7) Legal briefs and other court filings.

(8) Legal advice or opinions from the Council on Environmental Quality's Office of the General Counsel.

(9) Categories of guidance documents made exempt from Executive Order 13891 by the Administrator of the Office of Management and Budget's Office of Information and Regulatory Affairs through memoranda issued pursuant to section 4(b) of Executive Order 13891.

(c) *Elements of guidance documents.* In general, each guidance document must:

(1) Provide the title of the guidance document;

(2) Provide a unique document identification number;

(3) Identify the Council on Environmental Quality and any office, as appropriate, issuing the guidance document;

(4) Include the date of issuance;

(5) Include the term ''guidance'';

(6) Include a disclaimer clarifying that it does not have the force and effect of law; is not meant to bind the public in any way; and is intended only to provide clarity to the public regarding

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existing requirements under the law or agency policies. When a guidance document is binding because the law authorizes binding guidance or because a contract incorporates the guidance, the Council on Environmental Quality must modify the disclaimer to reflect accordingly;

(7) If it is a revision to or a replacement of a previously issued guidance document, identify the guidance document that it revises or replaces;

(8) Include a short summary of the subject matter covered in the guidance document at the top of the document;

(9) Identify the activities to which and the persons to whom the guidance document applies;

(10) Include the citation to the statutory provision or regulation to which the guidance document applies or which it interprets; and

(11) Be posted on the Council on Environmental Quality's website.

(d) *Review and clearance.* The Office of the General Counsel must review and clear all proposed guidance documents before issuance.

§ 1519.3 Procedures for the public to request withdrawal or modification of a guidance document.

(a) Any member of the public may petition the Council on Environmental Quality to withdraw or modify a guidance document.

(b) The petitioner must submit the request for the withdrawal or modification of a guidance document in writing to the Office of the General Counsel. The petition must contain a statement of the reasons for the petition and any supporting documents to support the petitioner's request.

(c) Upon receipt of a petition for withdrawal or modification of a guidance document, the Office of the General Counsel will consult with the relevant offices and coordinate the response to the petition.

(d) The Council on Environmental Quality should respond to a petition in writing, including electronically, within 90 days of receipt of a petition. The response should state whether the petition is granted, granted in part and denied in part, denied, or provisionally denied for lack of adequate information. If the petition is provisionally denied for lack of adequate information, the response should indicate what additional information is necessary to adjudicate the petition. The Office of the General Counsel should respond to the petition in writing no later than 90 days after receipt of the necessary additional information. The response should state whether the petition is granted, granted in part and denied in part, or denied.

(e) The Council on Environmental Quality may consider in a coordinated manner or provide a coordinated response to similar petitions for withdrawal or modification.

(f) The Council on Environmental Quality need not respond to petitions under this part for withdrawal or modification of documents that do not meet the definition of a guidance document.

§ 1519.4 Significant guidance documents.

(a) *Significant guidance documents definition.* For the purposes of this section, significant guidance documents are guidance documents that may be reasonably anticipated to:

(1) Lead to an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles of Executive Order 12866.

(b) *Actions the Council on Environmental Quality will take before issuing significant guidance documents.* When the Office of Management and Budget's Office of Information and Regulatory Affairs determines that a guidance document is a significant guidance document, the Council on Environmental Quality must:

(1) Submit the guidance document for review by the Office of Information and Regulatory Affairs under Executive Order 12866;

(2) Publish the draft significant guidance document in the **Federal Register** for a public notice and comment period of at least 30 days;

(i) This provision will not apply if the Council on Environmental Quality for good cause finds that notice and public comment is impracticable, unnecessary, or contrary to the public interest.

(ii) If such a finding is made, the Council on Environmental Quality must incorporate such a finding and a brief statement of its reasoning into the significant guidance document.

(3) Obtain approval on a non-delegable basis from the Chairman or an official who is serving in an acting capacity as the Chairman.

(4) Provide a public response to major concerns raised in comments on the draft significant guidance document.

(5) Announce the availability of the final significant guidance document.

(6) Comply with the applicable requirements for regulations or rules, including significant regulatory actions, set forth in Executive Orders 12866, ''Regulatory Planning and Review,'' 13563, ''Improving Regulation and Regulatory Review,'' 13609, ''Promoting International Regulatory Cooperation,'' 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' and 13777, ''Enforcing the Regulatory Reform Agenda.''

(c) *Exemption.* This section will not apply if the Chairman or an official who is serving in an acting capacity as the Chairman of the Council on Environmental Quality and the Administrator of the Office of Information and Regulatory Affairs agree that exigency, safety, health, or other compelling cause warrants an exemption from some or all requirements.

[FR Doc. 2020–28881 Filed 1–7–21; 8:45 am]

BILLING CODE 3225–F1–P

FEDERAL PERMITTING IMPROVEMENT STEERING COUNCIL

40 CFR Chapter IX

[Agency Docket Number 2020–001]

RIN 3121–AA01

Adding Mining as a Sector of Projects Eligible for Coverage Under Title 41 of the Fixing America's Surface Transportation Act

AGENCY: Federal Permitting Improvement Steering Council.

ACTION: Final rule.

SUMMARY: The Federal Permitting Improvement Steering Council (Permitting Council) has voted to add mining as a sector with infrastructure projects eligible for coverage under Title 41 of the Fixing America's Surface Transportation Act (FAST–41). A new part will be included in the Code of Federal Regulations that adds mining to the list of statutory FAST–41 sectors. The addition of mining as a FAST–41 sector will allow qualified mining infrastructure projects to become FAST–41 covered projects. FAST–41 coverage will help Federal agencies coordinate their environmental and project review efforts to improve the timeliness, efficiency, predictability, and transparency of the decision-making processes associated with covered

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Rules and Regulations

Federal Register
Vol. 86, No. 3
Wednesday, January 6, 2021

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 760

[Docket ID: FSA–2020–0011]

RIN 0560–AI55

Agricultural Disaster Indemnity Programs

AGENCY: Farm Service Agency (FSA), Department of Agriculture (USDA).

ACTION: Final rule.

SUMMARY: This rule establishes the Quality Loss Adjustment (QLA) Program to provide assistance to producers who suffered eligible crop quality losses due to hurricanes, excessive moisture, floods, drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. It also amends the provisions for the Wildfire and Hurricane Indemnity Program Plus (WHIP+) to be consistent with the Further Consolidated Appropriations Act, 2020, by adding excessive moisture and drought occurring in 2018 and 2019 as qualifying disaster events and clarifying eligibility of sugar beets. The changes to WHIP+ were self-enacting and were previously implemented by FSA.

DATES:

Effective date: January 6, 2021.

Comment due date: Comments are due by March 8, 2021.

ADDRESSES: We invite you to submit comments on this rule. You may submit comments by either of the following methods, although FSA prefers that you submit comments electronically through the Federal eRulemaking Portal:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and search for Docket ID FSA–2020–0011. Follow the instructions for submitting comments.
- *Mail:* Director, SND, FSA, U.S. Department of Agriculture, 1400 Independence Avenue SW, Stop 0522, Washington, DC 20250–0522. In your comment, specify the docket ID FSA–2020–0011.

Comments will be available for viewing online at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Kimberly Graham at (202) 720–6825 (voice); or by email at: *kimberly.graham@usda.gov*. Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice).

SUPPLEMENTARY INFORMATION:

Background

The Additional Supplemental Appropriations for Disaster Relief Act, 2019 (''Disaster Relief Act,'' Pub. L. 116–20) provided disaster assistance for necessary expenses related to losses of crops (including milk, on-farm stored commodities, crops prevented from planting in 2019, and harvested adulterated wine grapes), trees, bushes, and vines, as a consequence of hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. The Further Consolidated Appropriations Act, 2020 (Pub. L. 116–94), makes several changes to the provisions of the Disaster Relief Act, including:

- Specifying that assistance would be provided for crop quality losses;
- Adding excessive moisture as a qualifying disaster event;
- Adding drought as a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year; and
- Providing that sugar beet losses in 2018 and 2019 would be paid through cooperative processors (to be paid to producer members as determined by such processors).

This rule implements those provisions of the Further Consolidated Appropriations Act, 2020, by establishing the QLA Program to provide assistance for crop quality losses and amending the WHIP+ regulations to be consistent with the changes to qualifying disaster events and eligibility of sugar beet losses.

QLA Program

This rule establishes the QLA Program to provide disaster assistance for crop quality losses that were a consequence of hurricanes, excessive moisture, floods, qualifying drought, tornadoes, typhoons, volcanic activity, snowstorms, or wildfires occurring in calendar years 2018 and 2019. Eligible crops generally include crops for which FCIC crop insurance coverage or Noninsured Crop Disaster Assistance Program (NAP) coverage is available; however, value loss crops,[1] honey, and maple sap are not eligible. The QLA Program provides assistance for losses to crops that were sold or fed to livestock or are in storage; crops that were destroyed are not eligible. Assistance will be based on a producer's harvested affected production of an eligible crop that had a quality loss due to a qualifying disaster event and had at least a 5 percent quality loss due to all eligible disaster events.

Qualifying disaster events include hurricanes, floods, tornados, typhoons, volcanic activity, snowstorms, wildfires, excessive moisture, qualifying drought, and related conditions that occurred in the 2018 or 2019 calendar year. Assistance is available for eligible producers in counties that received a qualifying Presidential Emergency Disaster Declaration (declaration) or Secretarial Disaster Designation (designation) due to one or more of the qualifying disaster events or a related condition. As required by the Further Consolidated Appropriations Act, 2020, drought is only a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year (referred to as ''qualifying drought'' in this rule). Only producers in those counties that received a disaster declaration or designation qualify for the QLA Program based on the declaration or designation. Producers in counties that did not receive a qualifying declaration or designation may still apply; however, they must also provide supporting documentation to establish that the crop was directly affected by a qualifying disaster event and suffered the same

[1] Value loss crops include aquaculture, floriculture, mushrooms, ginseng root, ornamental nursery, sea grass and sea oats, Christmas trees, and turfgrass sod.

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minimum loss as required by a crop in a disaster declared or designated county. Lists of counties with Presidential Emergency Disaster Declarations and Secretarial Disaster Designations for all qualifying disaster events for 2018 and 2019 are available at *farmers.gov/quality-loss.*

FSA recognizes that a crop may suffer quality losses due to multiple disaster events in a single crop year, and the portion of a crop's quality loss that can be attributed to a specific disaster event may be difficult to determine. Therefore, while a qualifying disaster event must have caused at least a portion of the affected production's quality loss, FSA will consider the total quality loss caused by all eligible disaster events for eligibility and payment calculation purposes. Eligible disaster events for the QLA Program include those listed for NAP in 7 CFR 1437.10, except that the QLA Program does not cover losses due to insect infestation.

The QLA Program does not cover losses due to disaster events occurring after a crop was harvested or due to crop deterioration while in storage. Quality losses that could have been mitigated using good farming practices are not eligible. For example, if a producer's corn crop received a quality discount due to high moisture content, the producer could have mitigated that quality loss by using best practices for drying and storing the crop; therefore, that producer's quality loss due to high moisture is not eligible. The QLA Program does not provide assistance for losses that cannot be determined to have occurred or for losses for which a notice of loss was previously disapproved by FSA, RMA, or an approved insurance provider selling and servicing Federal crop insurance policies unless that notice of loss was disapproved solely because it was filed after the applicable deadline.

The QLA Program does not provide assistance for certain quality losses that were already compensated under a Federal crop insurance plan, NAP, or WHIP+. This includes losses to affected production of:

- Multiple market crops already compensated under crop insurance or WHIP+;
- Crops for which production used to calculate a crop insurance indemnity or WHIP+ payment was adjusted based on a comparison of the producer's sale price to the FCIC established price;
- Crops that received a crop insurance indemnity, NAP payment, or WHIP+ payment based on the quantity of production that was considered unmarketable; and
- Crops for which production was reported as salvage value or secondary use.

The QLA Program also excludes quality losses to sugar beets that were compensated through cooperative agreements with cooperative processors.

Affected production of a subsequent crop grown on double cropped acreage is only eligible if the crop has been approved as an eligible double cropping practice by the FSA State committee.

Application

FSA will accept QLA Program applications from January 6, 2021, through March 5, 2021. To apply, producers must submit a completed QLA Program application either in person, by mail, email, or facsimile to an FSA county office. To be eligible, a producer must submit a complete application, which includes all of the following:

- FSA–898, Quality Loss Adjustment (QLA) Program Application;
- FSA–899, Historical Nutritional Value Weighted Average Worksheet (only for forage crops with verifiable documentation of historical nutrient factors from the 3 preceding crop years);
- FSA–578, Report of Acreage;
- FSA–895, Crop Insurance and/or NAP Coverage Agreement; and
- Required documentation, as discussed below.

The FSA–578, FSA–895, and FSA–899 forms, and other required documentation must be submitted to the producer's county office by March 19, 2021.

If not already on file with FSA, producers must also submit the following eligibility forms for each crop year within 60 days of the date the producer signs the application:

- AD–1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification;
- CCC–902, Farm Operating Plan for Payment Eligibility;
- CCC–941 Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information; and
- CCC–942 Certification of Income from Farming, Ranching and Forestry Operations, if applicable.

Payments will not be made until all necessary eligibility documentation is received. Failure of an applicant to submit documentation timely may result in FSA not issuing a payment or, in the case of legal entities, a reduced payment if the required documentation for one or more members of the entity is not submitted timely.

Required Documentation

To support their applications, producers must submit documentation showing the quality loss and quantity of affected production by March 19, 2021. Documentation of the quality loss (total dollar value loss, grading factors, and nutrient factors, as applicable), must be verifiable. Verifiable documentation is documentation that can be verified by FSA through an independent source; FSA may verify the submitted records with records on file at the warehouse, gin, laboratory, or other entity that received or tested the reported production. Examples of acceptable, verifiable documentation include warehouse grading sheets, settlement sheets, sales receipts, and laboratory test results. Except for grain crops that have been sold, the documentation must be from laboratory tests or analysis completed within 30 days of harvest to be considered acceptable, unless the FSA county committee determines that the record is representative of the condition of the affected production within 30 days of harvest. For grain crops that were sold, the verifiable documentation can be from any time from harvest through the time of sale, unless the FSA county committee determines the record is not representative of the condition within 30 days of harvest. Producers who do not have acceptable, verifiable documentation are ineligible for the QLA Program.

For forage crops, all producers must submit verifiable documentation showing the nutrient factors for the affected production of the crop. Producers must also submit verifiable documentation of the historical nutrient factors for the 3 preceding crop years if available. The type of nutrient factors (such as relative feed value or total digestible nutrients) that must be documented for a particular crop will be determined by the FSA county committee based on the standard practice for the crop in that county. For all crops other than forage crops, producers must submit verifiable documentation of the total dollar value loss due to quality, if available, and verifiable documentation of grading factors due to quality.

Documentation to support the quantity of affected production included on the application must be verifiable for non-forage crops that receive a QLA payment based on the producer's total dollar value loss. For all other crops (non-forage crops without a producer's total dollar value loss and all forage crops), records to support the quantity of affected production must be reliable. Reliable production records means evidence provided by the participant that is used to substantiate the amount of production reported when verifiable

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records are not available, including copies of receipts, ledgers of income, income statements of deposit slips, register tapes, invoices for custom harvesting, and records to verify production costs, contemporaneous measurements, truck scale tickets, and contemporaneous diaries that are determined acceptable by the FSA county committee. To determine whether the records are acceptable, the FSA county committee will consider whether they are consistent with the records of other producers of the crop in that area.

Payment Calculation

QLA Program payments will be calculated using different formulas based on the type of crop (forage or non-forage) and based on the type of documentation submitted. All QLA payments, regardless of whether they are forage or non-forage, and the type of documentation submitted, will be calculated using a 70 percent payment factor. Payments calculated based on a county average loss, as described below, will be subject to an additional payment factor of 50 percent.

For forage crops with verifiable documentation of both the nutrient factors for the affected production and historical nutrient factors for the 3 preceding crop years, payment will be equal to the amount of the producer's total affected production multiplied by the producer's verifiable percentage of loss, multiplied by the average market price determined by FSA, multiplied by 70 percent. The producer's verifiable percentage of loss is determined by comparing the nutrient factor test results for the affected production to the average from the 3 preceding crop years, as documented on the FSA–899, Historical Nutritional Value Weighted Average Worksheet. The average market price for the QLA Program is the price used for NAP established according to 7 CFR 1437.12.

For forage crops with verifiable documentation of nutrient factors for the affected production but without historical nutrient factors for the 3 preceding crop years, the payment will be equal to the amount of the producer's total affected production multiplied by the county average percentage of loss, multiplied by the average market price determined by FSA, multiplied by 70 percent, multiplied by 50 percent.

For affected production of non-forage crops with verifiable documentation of the total dollar value loss due to quality, the QLA Program payment is equal to the producer's total dollar value loss on the affected production of the crop, multiplied by a payment factor of 70 percent.

For non-forage crops without verifiable documentation of a total dollar value loss but with verifiable documentation of grading factors due to quality, the payment will be equal to the amount of producer's affected production multiplied by the county average loss per unit of measure, multiplied by 70 percent, multiplied by 50 percent.

To determine the county average percentage of loss (for forage crops) or the county average loss per unit of measure (for non-forage crops), FSA will calculate the average loss for a crop based on losses of producers applying with verifiable documentation of historical nutritional factors (for forage crops) or the total dollar value loss (for non-forage crops) if at least 5 eligible producers submitted that documentation in the county. If less than 5 eligible producers in a county submit verifiable documentation of their historical nutritional factors or their total dollar value loss, FSA will determine a county average percentage of loss or county average loss per unit of measure based on the best available data, including losses of other QLA Program participants in contiguous counties. If sufficient data is still not available after considering other sources, FSA may determine that a county average cannot be calculated and producers in that county applying for payment under the applicable calculation are ineligible.

Payments for the QLA Program will not be issued until the application period has ended in order to allow FSA to determine the county average losses, as well as the total payments requested under the QLA Program. The Further Consolidated Appropriations Act, 2020 provides funding for the QLA Program to be available until December 31, 2021, in an amount equal to the remaining funds provided under the Bipartisan Budget Act of 2018 (Pub. L. 115–123) for losses due to Hurricanes Harvey, Irma, Maria, and other hurricanes and wildfires occurring in calendar year 2017,[2] and remaining funds provided under the Disaster Relief Act for losses due to Hurricanes Michael and Florence, other hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.[3] If the total amount of calculated QLA Program payments exceeds the amount of funding available, FSA will prorate all payments by a national factor.

A person or legal entity, other than a joint venture or general partnership, is eligible to receive, directly or indirectly, up to $125,000 per crop year in QLA Program payments. FSA will use the notification of interest provisions in 7 CFR 1400.107 and payment attribution provisions in 7 CFR 1400.105 for attributing and limiting payments to persons and legal entities. FSA will also use provisions in 7 CFR 1400.104 when changes in a farming operation result in an increase in persons to which payment limitation applies. Payments made to a joint operation (including a general partnership or joint venture) cannot exceed $250,000 per person or legal entity that comprise the ownership of the joint operation. Payments made to a legal entity will be reduced proportionately by an amount that represents the direct or indirect ownership in the legal entity by any person or legal entity that has otherwise reached the maximum payment limitation. These rules for attributing and limiting payments are consistent with the programs FSA administers on behalf of the Commodity Credit Corporation.

A person or legal entity, other than a joint venture or general partnership, is ineligible for a 2018, 2019, or 2020 payment if the person's or legal entity's average adjusted gross income (AGI) is more than $900,000, unless at least 75 percent of that person's or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. The average AGI for each of the program years 2018, 2019, or 2020, is determined using the average of the adjusted gross incomes for the 3 taxable years preceding the most immediately preceding taxable year. For example, for the 2019 program year, the producer's AGI would be based on the 2015, 2016, and 2017 tax years. If at least 75 percent of the person's or legal entity's AGI is derived from farming, ranching, or forestry-related activities and the participant provides the required certification and documentation, the person or legal entity is eligible to

[2] FSA provided assistance for losses due to Hurricanes Harvey, Irma, Maria, and other hurricanes and wildfires occurring in calendar year 2017 through the 2017 Wildfires and Hurricanes Indemnity Program (2017 WHIP) (final rule published July 18, 2018, 83 FR 33795–33809) and the Florida Citrus Recovery Grant Program.

[3] FSA has previously provided assistance for losses due to Hurricanes Michael and Florence, other hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019 through the Wildfires and Hurricanes Indemnity Program Plus (WHIP+), On-Farm Storage Loss Program, and Milk Loss Program (final rule published September 13, 2019, 84 FR 48518–48537), as well as through several grants and cooperative agreements with sugar beet cooperatives.

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receive QLA Program payments up to the applicable payment limitation noted above. With respect to joint ventures and general partnerships, this AGI provision will be applied to each member of the joint venture and general partnership.

Requirement to Purchase Crop Insurance or NAP Coverage

The Disaster Relief Act requires all participants who receive QLA Program payments to purchase crop insurance or NAP coverage for the next 2 available crop years. The latest year for meeting compliance with this provision will be the 2023 crop year. In other words, if the 2 consecutive years of coverage are not met by 2023 coverage year, the participant is ineligible for and must refund QLP Program payments. Participants must obtain crop insurance or NAP, as may be applicable, at the 60 percent coverage level or higher. In situations where crop insurance is unavailable for a crop, the Disaster Relief Act requires that a QLA Program participant obtain NAP coverage. Section 1001D of the Food Security Act of 1985 (1985 Farm Bill) provides that a person or entity with AGI in amount greater than $900,000 is not eligible to participate in NAP; however, producers with an AGI greater than $900,000 may be eligible for the QLA Program if at least 75 percent of that person's or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. Accordingly, in order to reconcile this restriction in the 1985 Farm Bill and the Disaster Relief Act's requirement to obtain NAP or crop insurance coverage, QLA Program participants may meet the Disaster Relief Act's purchase requirement by purchasing Whole-Farm Revenue Protection crop insurance coverage, if eligible, or they may pay the applicable NAP service fee and premium for the 60 percent coverage level despite their ineligibility for a NAP payment. In other words, the service fee and premium must be paid even though no NAP payment may be made because the AGI of the person or entity exceeds the 1985 Farm Bill limitation.

The crop insurance and NAP coverage requirements are specific to the crop and county (county where the crop is physically located for insurance and administrative county for NAP) for which QLA Program payments are paid. This means that a producer is required to purchase crop insurance or NAP coverage for the crop in the county for which the producer was issued a QLA Program payment. Producers who receive a payment on a crop in a county and who have the crop or crop acreage in subsequent years, as provided in this rule, and who fail to obtain the 2 years of crop insurance or NAP coverage must refund all QLA Program payments for that crop in that county with interest from the date of disbursement. This is a condition of payment eligibility specified by Disaster Relief Act and is therefore not subject to partial payment eligibility or other types of equitable relief. Producers who were paid under the QLA Program for a crop in a county but do not plant that crop in a subsequent year are not subject to the crop insurance or NAP purchase requirement. WHIP+ participants who already met the requirement to purchase crop insurance or NAP coverage as specified in 7 CFR 760.1517 are considered to have also met the requirement to purchase crop insurance or NAP coverage for QLA Program purposes, and they are not required to obtain additional years of crop insurance or NAP coverage as a result of also receiving a QLA Program payment for that crop.

Applicable general eligibility requirements, including recordkeeping requirements and required compliance with HELC and Wetland Conservation provisions, are similar to those for the previous ad hoc crop disaster programs and current permanent disaster programs. All information provided to FSA for program eligibility and payment calculation purposes, including production records, is subject to spot check.

WHIP+

FSA, on behalf of the Secretary of Agriculture, previously implemented provisions of the Disaster Relief Act by establishing WHIP+ through a final rule published on September 19, 2019 (84 FR 48518–48537). The Disaster Relief Act provided assistance for losses of crops, trees, bushes, and vines, as a consequence of hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. WHIP+ covers only production losses of crops except in specific circumstances discussed previously in this document when the producer may have also been compensated for quality losses.

This rule amends 7 CFR 760.1500(c) and the definition of ''qualifying disaster event'' in § 760.1502 to include excessive moisture and qualifying drought. As under the QLA Program, drought is only considered a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year. This rule adds definitions of ''qualifying drought'' and ''U.S. Drought Monitor'' in § 760.1502.

The addition of these qualifying disaster events for WHIP+ was self-enacting as the text in the law clearly specified the required changes without need for interpretation; therefore, FSA began the sign-up period for losses due to excessive moisture and qualifying drought on March 23, 2020, and sign-up ended on October 30, 2020. Producers applying for WHIP+ assistance for losses due to excessive moisture or qualifying drought were required to meet all requirements in 7 CFR part 760, subpart O, including the requirement to purchase crop insurance for 2 years as specified in § 760.1517.

The Further Consolidated Appropriations Act, 2020 also directed the Secretary to pay sugar beet losses in 2018 and 2019 through cooperative processors. FSA has established cooperative agreements with sugar beet processors; those processors will be responsible for distributing assistance to their members. This rule amends the eligibility provisions in § 760.1517 to specify that members of cooperatives are not eligible for a WHIP+ payment for sugar beet losses.

FSA is also updating § 760.1510(a) to reflect the application deadline of October 30, 2020, and correcting references in §§ 760.1508(c) and (f) and 760.1511(a)(6).

Notice and Comment and Effective Date

The Administrative Procedure Act (5 U.S.C. 553) provides that the notice and comment and 30-day delay in the effective date provisions do not apply when the rule involves a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts. This rule involves programs for payments to certain agricultural commodity producers and therefore falls within that exemption. Due to the nature of the rule and the need to implement the regulations expeditiously to provide assistance to agricultural producers, FSA finds that notice and public procedure are contrary to the public interest. Therefore, even though this rule is a major rule for purposes of the Congressional Review Act, FSA is not required to delay the effective date for 60 days from the date of publication to allow for Congressional review. Therefore, this rule is effective upon publication in the **Federal Register**.

Executive Orders 12866, 13563, 13771 and 13777

Executive Order 12866, ''Regulatory Planning and Review,'' and Executive

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Order 13563, ''Improving Regulation and Regulatory Review,'' direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13777, ''Enforcing the Regulatory Reform Agenda,'' established a Federal policy to alleviate unnecessary regulatory burdens on the American people.

The Office of Management and Budget (OMB) designated this rule as economically significant under Executive Order 12866, and therefore, OMB has reviewed this rule. The costs and benefits of this rule are summarized below. The full cost benefit analysis is available on *regulations.gov.*

Executive Order 13771, titled Reducing Regulation and Controlling Regulatory Costs, was issued on January 30, 2017. The OMB guidance in M–17–21, dated April 5, 2017, specifies that ''transfers'' are not covered by Executive Order 13771 but that requirements imposed apart from transfers in transfer rules may qualify as costs or cost savings under Executive Order 13771, for example the information collection requirements in this rule. This rule is not subject to the requirements of E.O. 13771 because this rule results in no more than de minimis costs.

Cost Benefit Analysis Summary

WHIP+ initially provided approximately $3 billion in supplemental assistance to producers for qualifying agricultural production losses. In the Further Consolidated Appropriations Act, 2020, Congress changed provisions of the Disaster Relief Act as follows:

1. Extended eligibility under WHIP+ to also cover [4]—

a. Crop production losses due to excessive moisture in calendar years 2018 and 2019;

b. Crop production losses due to drought in calendar years 2018 and 2019 if the area within the county in which the loss occurred was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year;

2. Provided assistance for sugar beet losses in 2018 and 2019 to be paid through cooperative processors; [5] and

3. Authorized assistance for crop quality losses that occurred in calendar years 2018 and 2019 through the QLA Program (implemented by this rule).

Eligible crops under the QLA Program include crops for which Federal crop insurance or NAP coverage is available. To be eligible for the QLA Program, a crop must have suffered a quality loss due to a qualifying disaster event and had at least a 5 percent quality discount due to a combination of the qualifying disaster event and any other QLA-eligible causes of loss. Eligible crops may have been sold, fed on farm to livestock, or been in storage at the time of application.

USDA estimates the Further Consolidated Appropriations Act, 2020 will provide approximately $950 million for the continuation of disaster assistance program delivery, including payments to eligible producers for production losses due to excessive moisture and extreme drought under WHIP+ and for quality losses covered by the QLA Program. Of that amount, USDA anticipates that an estimated $500 million will be available for QLA Program payments. However, the amount of funding ultimately available for the QLA Program will not be known until other payments, for example for excessive moisture and drought under WHIP+, are finalized.

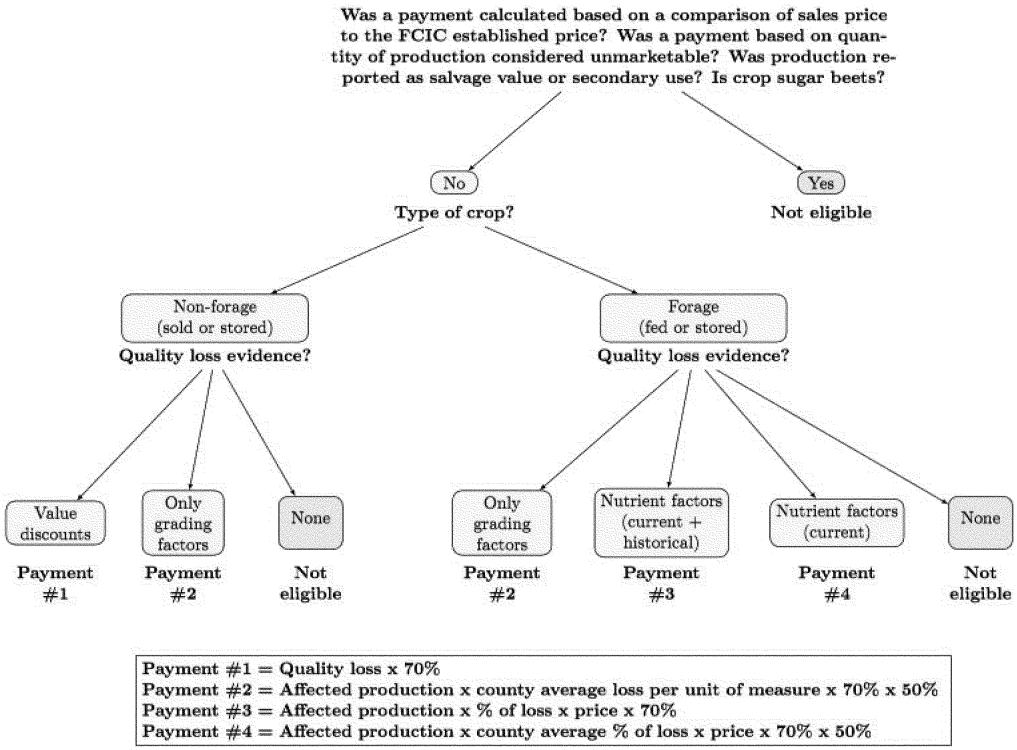
The QLA Program payment calculation depends on several factors, as shown in Figure 1. A producer is ineligible for a QLA Program payment if they received a crop insurance indemnity, NAP payment, or WHIP+ payment for a crop that was unmarketable, sold for salvage value or secondary use, or if the payment was based on a comparison of the sales price of the affected production and the applicable reference price. Otherwise, payments or benefits received under the Federal crop insurance, NAP or WHIP+ do not affect a producer's eligibility or payment received from the QLA Program. The payment calculation depends on the use of production (non-forage or forage) and evidence at hand of the crop quality loss. Producers who do not have evidence of the quality loss are ineligible.

[4] The addition of excessive moisture and certain drought conditions as qualifying causes of loss under WHIP+ is specific, not open to interpretation, and is therefore self-enacting. Accordingly, the provision was previously implemented. FSA began the sign-up period on March 23, 2020, and sign-up ended on October 30, 2020.

[5] Assistance for sugar beet losses for members of cooperative processors is provided through a separate program.

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Figure 1. Eligibility and Payment Calculation



Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA, Pub. L. 104–121), generally requires an agency to prepare a regulatory flexibility analysis of any rule whenever an agency is required by the Administrative Procedure Act or any other law to publish a proposed rule, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule is not subject to the Regulatory Flexibility Act because USDA is not required by Administrative Procedure Act or any law to publish a proposed rule for this rulemaking.

Environmental Review

The environmental impacts of this final rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and the FSA regulation for compliance with NEPA (7 CFR part 799). The legislative intent for implementing the QLA Program is to provide assistance to producers who suffered eligible crop quality losses due to hurricanes, excessive moisture, floods, drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.

While OMB has designated this rule as ''economically significant'' under Executive Order 12866, ''economic or social effects are not intended by themselves to require preparation of an environmental impact statement'' (see 40 CFR 1502.16(b)), when not interrelated to natural or physical environmental effects.

For this rule, the FSA Categorical Exclusions found in 7 CFR 799.31 apply, specifically 7 CFR 799.31(b)(6)(iii), (iv), and (vi) (that is, § 799.31(b)(6)(iii) Financial assistance to supplement income, manage the supply of agricultural commodities, or influence the cost or supply of such commodities or programs of a similar nature or intent (that is, price support programs); § 799.31(b)(6)(iv) Individual farm participation in FSA programs where no ground disturbance or change in land use occurs as a result of the proposed action or participation; and § 799.31(b)(6)(vi) Safety net programs administered by FSA). No Extraordinary Circumstances (7 CFR 799.33) exist.

For the outlined reasons, FSA has determined that the implementation of the QLA Program and the participation in the QLA Program does not constitute a major Federal action that would significantly affect the quality of the human environment, individually or cumulatively. Therefore, FSA will not prepare an environmental assessment or environmental impact statement for this regulatory action.

Executive Order 12372

Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' requires consultation with State and local officials that would be directly affect by proposed Federal financial assistance. The objectives of the Executive order are to foster an intergovernmental partnership and a strengthened federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance and direct Federal development. For reasons specified in the final rule related notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs and activities

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within this rule are excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, ''Civil Justice Reform.'' This rule will not preempt State or local laws, regulations, or policies unless they represent an irreconcilable conflict with this rule. The rule will not have retroactive effect. Before any judicial action may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR parts 11 and 780 must be exhausted.

Executive Order 13132

This rule has been reviewed under Executive Order 13132, ''Federalism.'' The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, except as required by law. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

The USDA's Office of Tribal Relations (OTR) has assessed the impact of this rule on Indian Tribes and determined that this rule may have significant Tribal implications that require ongoing adherence to Executive Order 13175. OTR notes that the programs are similar to programs that have been administered by FSA and RMA in the past; having not heard any concerns regarding the administration of these in the past, and the fact that provisions are mandated in the Disaster Relief Act, OTR recommended that consultation is not required at this time. Tribes can request consultation at any time. FSA will work with OTR to ensure meaningful consultation is provided where changes, additions, and modifications identified in this rule are not expressly mandated by law.

The Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104–4) requires Federal agencies to assess the effects of their regulatory actions on State local, and Tribal governments or the private sector. Agencies generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures of $100 million or more in any 1 year for State, local, or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates, as defined in Title II of UMRA, for State, local, and Tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, FSA submitted the QLA Program information collection request to OMB for emergency approval. OMB approved the 6-month emergency information collection.

E-Government Act Compliance

FSA is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Federal Assistance Programs

The titles and numbers of the Federal Domestic Assistance Program found in the Catalog of Federal Domestic Assistance to which this rule applies are:

10.129—Wildfire and Hurricanes Indemnity Program Plus
10.133—Quality Loss Adjustment Program

List of Subjects in 7 CFR Part 760

Dairy products, Indemnity payments, Reporting and recordkeeping requirements.

For the reasons discussed above, FSA amends 7 CFR part 760 as follows:

PART 760—INDEMNITY PAYMENT PROGRAMS

■ 1. Revise the authority citation for part 760 to read as follows:

Authority: 7 U.S.C. 4501 and 1531; 16 U.S.C. 3801, note; 19 U.S.C. 2497; Title III, Pub. L. 109–234, 120 Stat. 474; Title IX, Pub. L. 110–28, 121 Stat. 211; Sec. 748, Pub. L. 111–80, 123 Stat. 2131; Title I, Pub. L. 115–123, 132 Stat. 65; Title I, Pub. L. 116–20, 133 Stat. 871; and Division B, Title VII, Pub. L. 116–94, 133 Stat. 2658.

Subpart O—Agricultural Disaster Indemnity Programs

§ 760.1500 [Amended]

■ 2. In § 760.1500(c), remove the words ''and wildfires'' and add ''wildfires, excessive moisture, and qualifying drought'' in their place.

■ 3. Amend § 760.1502 as follows:

■ a. In the definition of ''Qualifying disaster event'', in paragraph (2) of remove the word ''wildfire'' and add ''wildfire, excessive moisture, qualifying drought'' in its place; and

■ b. Add the definitions of ''Qualifying drought'' and ''U.S. Drought Monitor'' in alphabetical order.

The additions read as follows:

§ 760.1502 Definitions.

* * * * *

Qualifying drought means an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year.

* * * * *

U.S. Drought Monitor is a system for classifying drought severity according to a range of abnormally dry to exceptional drought. It is a collaborative effort between Federal and academic partners, produced on a weekly basis, to synthesize multiple indices, outlooks, and drought impacts on a map and in narrative form. This synthesis of indices is reported by the National Drought Mitigation Center at *http://droughtmonitor.unl.edu.*

* * * * *

■ 4. In § 760.1503, add paragraph (j) to read as follows.

§ 760.1503 Eligibility.

* * * * *

(j) Members of cooperative processors are not eligible for WHIP+ assistance for sugar beet losses.

§ 760.1508 [Amended]

■ 5. Amend § 760.1508 as follows:

■ a. In paragraph (c), remove the cross reference ''paragraph (b)(1)'' and add the cross reference ''paragraph (b)'' in its place; and

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■ b. In paragraph (f), remove the cross reference ''paragraph (b)(1)'' and add cross reference ''paragraph (e)'' in its place.

§ 760.1510 [Amended]

■ 6. In § 760.1510(a), remove the words ''a date that will be announced by the Deputy Administrator'' and add ''October 30, 2020'' in their place.

§ 760.1511 [Amended]

■ 7. In § 760.1511(a)(6), remove the cross reference ''paragraph (f)'' and add cross reference ''paragraph (g)'' in its place.

■ 8. Add subpart R, consisting of §§ 760.1800 through 760.1814, to read as follows:

Subpart R—Quality Loss Adjustment Program

Sec.

760.1800 Applicability.
760.1801 Administration.
760.1802 Definitions.
760.1803 Participant eligibility.
760.1804 Eligibility of affected production.
760.1805 Qualifying disaster events.
760.1806 Ineligible losses.
760.1807 Miscellaneous provisions.
760.1808 General provisions.
760.1809 Payment and adjusted gross income limitation.
760.1810 Time and method of application.
760.1811 Required documentation and verification.
760.1812 Payment calculation.
760.1813 Availability of funds and timing of payments.
760.1814 Requirement to purchase crop insurance or NAP coverage.

§ 760.1800 Applicability.

This subpart specifies the terms and conditions for the Quality Loss Adjustment (QLA) Program. The QLA Program provides disaster assistance for crop quality losses that were a consequence of hurricanes, excessive moisture, floods, qualifying drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.

§ 760.1801 Administration.

(a) The QLA Program is administered under the general supervision of the Administrator, Farm Service Agency (FSA), and the Deputy Administrator for Farm Programs, FSA. The QLA Program is carried out by FSA State and county committees with instructions issued by the Deputy Administrator.

(b) FSA State and county committees, and representatives and their employees, do not have authority to modify or waive any of the provisions of the regulations in this subpart or instructions issued by the Deputy Administrator.

(c) The FSA State committee will take any action required by the regulations in this subpart that the FSA county committee has not taken. The FSA State committee will also:

(1) Correct, or require an FSA county committee to correct, any action taken by the FSA county committee that is not in accordance with the regulations in this subpart; or

(2) Require an FSA county committee to withhold taking any action that is not in accordance with this subpart.

(d) No delegation to an FSA State or county committee precludes the FSA Administrator or the Deputy Administrator from determining any question arising under this subpart or from reversing or modifying any determination made by an FSA State or county committee.

(e) The Deputy Administrator has the authority to:

(1) Permit State and county committees to waive or modify a non-statutory deadline specified in this subpart; and

(2) Delegate authority to FSA State or county committees to make determinations under § 760.1812(f) and (g).

(f) Items of general applicability to program participants, including, but not limited to, application periods, application deadlines, internal operating guidelines issued to FSA State and county offices, prices, and payment factors established under this subpart, are not subject to appeal in accordance with part 780 of this chapter.

§ 760.1802 Definitions.

The following definitions apply to this subpart. The definitions in §§ 718.2 and 1400.3 of this title also apply, except where they conflict with the definitions in this section. In the event of conflict, the definitions in this section apply.

Affected production means the producer's ownership share of harvested production of an eligible crop, adjusted to standard moisture as established by the U.S. Grains Standards Act, a State regulatory agency, or industry standard, that had both:

(1) A quality loss due to a qualifying disaster event; and

(2) At least a 5 percent quality loss due to all eligible disaster events.

Average market price means the average market price determined according to § 1437.12 of this title.

Coverage level means the percentage determined by multiplying the elected yield percentage under a crop insurance policy or NAP coverage by the elected price percentage.

Crop insurance means an insurance policy reinsured by FCIC under the provisions of the Federal Crop Insurance Act, as amended. It does not include private plans of insurance.

Crop insurance indemnity means, for the purpose of this subpart, the payment to a participant for crop losses covered under crop insurance administered by RMA in accordance with the Federal Crop Insurance Act (7 U.S.C. 1501–1524).

Crop year means:

(1) For insurable crops, the crop year as defined according to the applicable crop insurance policy; and

(2) For NAP-eligible crops, the crop year as defined in § 1437.3 of this title.

Eligible crop means a crop for which coverage was available either from FCIC under part 400 of this title, or through NAP under § 1437.4 of this title.

Eligible disaster event means a disaster event that is an eligible cause of loss specified in § 1437.10 of this title, excluding insect infestation.

FCIC means the Federal Crop Insurance Corporation, a wholly owned Government Corporation of USDA, administered by RMA.

FSA means the Farm Service Agency, an agency of USDA.

Grading factor means a factor that describes the physical condition or a feature that is evaluated to determine the quality of the production, such as broken kernels and low-test weight.

Good farming practices means the cultural practices generally recognized as compatible with agronomic and weather conditions and used for the crop to make normal progress toward maturity, as determined by FSA. These practices are:

(1) For conventional farming practices, those generally recognized by agricultural experts for the area, which could include one or more counties; or

(2) For organic farming practices, those generally recognized by the organic agricultural experts for the area or contained in the organic system plan that is in accordance with the National Organic Program specified in part 205 of this title.

Harvested means:

(1) For insurable crops, harvested as defined according to the applicable crop insurance policy;

(2) For NAP-eligible single harvest crops, that a crop has been removed from the field, either by hand or mechanically;

(3) For NAP-eligible crops with potential multiple harvests in 1 year or harvested over multiple years, that the producer has, by hand or mechanically, removed at least 1 mature crop from the field during the crop year; and

(4) For mechanically harvested NAP-eligible crops, that the crop has been

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removed from the field and placed in a truck or other conveyance, except hay is considered harvested when in the bale, whether removed from the field or not.

Insurable crop means an agricultural crop (excluding livestock) for which the producer on a farm is eligible to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501–1524).

Multiple market crop means a crop that is delivered to a single market but can have fresh and processed prices based on grading. For example, a producer may intend to sell all production of an apple crop as fresh production; however, based on grading of the crop at the market, the producer is compensated for some production at the fresh price and for some production at the processing price.

Multiple planting means the planting for harvest of the same crop in more than one planting period in a crop year on different acreage.

NAP means the Noninsured Crop Disaster Assistance Program under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) and part 1437 of this title.

NAP-eligible crop means an agricultural crop for which the producer on a farm is eligible to obtain NAP coverage.

NAP service fee means the amount specified in § 1437.7 of this title that the producer must pay to obtain NAP coverage.

Nutrient factor means a factor determined by a test that measures the nutrient value of a crop to be fed to livestock. Examples include, but are not limited to, relative feed value and total digestible nutrients.

Production means quantity of the crop produced, which is expressed in a specific unit of measure including, but not limited to, bushels or pounds.

QLA Program means the Quality Loss Adjustment Program.

Qualifying disaster event means a hurricane, flood, tornado, typhoon, volcanic activity, snowstorm, wildfire, excessive moisture, qualifying drought, or a related condition that occurred in the 2018 or 2019 calendar year.

Qualifying drought means an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year.

Quality loss means:

(1) For forage crops, a reduction in an applicable nutrient factor for the crop; and

(2) For crops other than forage, a reduction in the total dollar value of the crop due to reduction in the physical condition of the crop indicated by an applicable grading factor.

Related condition means damaging weather or an adverse natural occurrence that occurred as a direct result of a specified qualifying disaster event, such as excessive rain, high winds, flooding, mudslides, and heavy smoke, as determined by the Deputy Administrator. The term does not include insect infestation.

Reliable production record means evidence provided by the participant that is used to substantiate the amount of production reported when verifiable records are not available, including copies of receipts, ledgers of income, income statements of deposit slips, register tapes, invoices for custom harvesting, and records to verify production costs, contemporaneous measurements, truck scale tickets, and contemporaneous diaries that are determined acceptable by the FSA county committee. To determine whether the records are acceptable, the FSA county committee will consider whether they are consistent with the records of other producers of the crop in that area.

RMA means the Risk Management Agency, an agency of USDA.

Salvage value means the dollar amount or equivalent for the quantity of the commodity that cannot be marketed or sold in any recognized market for the crop.

Secondary use means the harvesting of a crop for a use other than the intended use.

Unit of measure means:

(1) For insurable crops, the FCIC-established unit of measure; and

(2) For NAP-eligible crops, the established unit of measure used for the NAP price and yield.

USDA means the U.S. Department of Agriculture.

U.S. Drought Monitor is a system for classifying drought severity according to a range of abnormally dry to exceptional drought. It is a collaborative effort between Federal and academic partners, produced on a weekly basis, to synthesize multiple indices, outlooks, and drought impacts on a map and in narrative form. This synthesis of indices is reported by the National Drought Mitigation Center at *http://droughtmonitor.unl.edu.*

Value loss crop has the meaning specified in subpart D of part 1437 of this title.

Verifiable documentation means evidence that can be verified by FSA through an independent source.

Verifiable percentage of loss is the percentage of loss determined by comparing the applicable nutrient factors for a producer's affected production of a forage crop with the average of such nutrient factors from the 3 preceding crop years, as documented on FSA–899, Historical Nutritional Value Weighted Average Worksheet.

WHIP+ means the Wildfires and Hurricanes Indemnity Program Plus under subpart O of this part.

§ 760.1803 Participant eligibility.

(a) Participants will be eligible to receive a payment under this subpart only if they incurred a loss to an eligible crop due to a qualifying disaster event, as further specified in this subpart.

(b) To be an eligible participant under this subpart, a person or legal entity must be a:

(1) Citizen of the United States;

(2) Resident alien; for purposes of this subpart, resident alien means ''lawful alien'' (see § 1400.3 of this title);

(3) Partnership consisting solely of citizens of the United States or resident aliens; or

(4) Corporation, limited liability company, or other similar organizational structure organized under State law consisting solely of citizens or resident aliens of the United States.

(c) If any person who would otherwise be eligible to receive a payment dies before the payment is received, payment may be released as specified in § 707.3 of this chapter. Similarly, if any person or legal entity who would otherwise have been eligible to apply for a payment dies or is dissolved, respectively, before the payment is applied for, payment may be released in accordance with this subpart if a timely application is filed by an authorized representative. Proof of authority to sign for the deceased producer or dissolved entity must be provided. If a participant is now a dissolved general partnership or joint venture, all members of the general partnership or joint venture at the time of dissolution or their duly authorized representatives must sign the application. Eligibility of such participant will be determined, as it is for other participants, based upon ownership share and risk in producing the crop.

(d) An ownership share is required to be eligible for a payment under this subpart. Growers growing eligible crops under contract for crop owners are not eligible for a payment under this subpart unless the grower is also determined to have an ownership share of the crop. Any verbal or written contract that precludes the grower from having an ownership share renders the

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grower ineligible for payments under this subpart.

(e) A person or legal entity is not eligible to receive assistance under this subpart if FSA determines that the person or legal entity:

(1) Adopted any scheme or other device that tends to defeat the purpose of this subpart or any of the regulations applicable to this subpart;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination under any or all of the following: This subpart and parts 12, 400, 1400, and 1437 of this title.

(f) A person who is ineligible for crop insurance or NAP under § 400.458 or § 1437.16 of this title, respectively, for any year is ineligible for payments under this subpart for the same year.

(g) The provisions of § 718.11 of this chapter, providing for ineligibility for payments for offenses involving controlled substances, apply.

(h) As a condition of eligibility to receive payments under this subpart, the participant must have been in compliance with the Highly Erodible Land Conservation and Wetland Conservation provisions of part 12 of this title for the applicable crop year for which the producer is applying for benefits under this subpart, and must not otherwise be precluded from receiving payments under part 12, 400, 1400, or 1437 of this title or any law.

§ 760.1804 Eligibility of affected production.

(a) To be eligible for the QLA Program, an eligible crop's affected production must have suffered a quality loss due to a qualifying disaster event and had at least a 5 percent quality loss due to all eligible disaster events. Whether affected production of a crop had a 5 percent loss will be determined separately for crops with different crop types, intended uses, certified organic or conventional status, county, and crop year.

(b) Affected production of the following is not eligible for the QLA Program:

(1) Crops that were not grown commercially;

(2) Crops that were intended for grazing or were grazed;

(3) Crops not intended for harvest;

(4) Volunteer crops;

(5) Value loss crops;

(6) Maple sap;

(7) Honey;

(8) By-products resulting from processing or harvesting a crop, such as, but not limited to, cotton seed, peanut shells, wheat or oat straw, or corn stalks or stovers;

(9) First-year seeding for forage production;

(10) Immature fruit crops;

(11) Crops for which FCIC coverage or NAP coverage is unavailable;

(12) Multiple market crops for which the producer previously received a crop insurance indemnity or WHIP+ payment for a quality loss;

(13) Crops for which production used to calculate a crop insurance indemnity or WHIP+ payment was adjusted based on a comparison of the producer's sale price to FCIC established price;

(14) Crops that received a crop insurance indemnity, NAP payment, or WHIP+ payment based on the quantity of production that was considered unmarketable;

(15) Crops for which the producer previously received a crop insurance indemnity, NAP payment, or WHIP+ payment for which production was reported as salvage value or secondary use;

(16) Sugar beets for which a member of a cooperative processor received a payment through a cooperative agreement; and

(17) Crops that were destroyed.

(c) Only affected production from initial crop acreage will be eligible for a QLA Program payment, unless the provisions for subsequent crops in this section are met. All plantings of an annual or biennial crop are considered the same as a planting of an initial crop in tropical regions as defined in part 1437, subpart F, of this title.

(d) In cases where there is double cropped acreage, affected production of each crop may be eligible only if the specific crops are approved by the FSA State committee as eligible double cropping practices in accordance with procedures approved by the Deputy Administrator.

(e) Participants having affected production from multiple plantings may receive payments for each planting only if the planting meets the requirements of part 1437 of this title and all other provisions of this subpart are satisfied.

§ 760.1805 Qualifying disaster events.

(a) A producer is eligible for payments under this subpart only if the producer's affected production of an eligible crop suffered a crop quality loss due to a qualifying disaster event.

(b) A crop quality loss due to a qualifying disaster event must have occurred on acreage that was physically located in a county that received a:

(1) Presidential Emergency Disaster Declaration authorizing public assistance for categories C through G or individual assistance due to a qualifying disaster event occurring in the 2018 or 2019 calendar years; or

(2) Secretarial Disaster Designation for a qualifying disaster event occurring in the 2018 or 2019 calendar years.

(c) A producer with a crop quality loss on acreage not physically located in a county that was eligible under paragraph (b) of this section will be eligible for the QLA Program for losses due to qualifying disaster events only if the producer provides supporting documentation from which the FSA county committee determines that the crop quality loss on the unit was reasonably related to a qualifying disaster event as specified in this subpart. Supporting documentation may include furnishing climatological data from a reputable source or other information substantiating the claim of loss due to a qualifying disaster event.

§ 760.1806 Ineligible losses.

(a) A loss is not eligible under this subpart if any of the following apply:

(1) The cause of loss is determined by FSA to be the result of poor management decisions, poor farming practices, or drifting herbicides;

(2) The loss could have been mitigated using good farming practices, including losses due to high moisture content that could be mitigated by following best practices for drying and storing the crop;

(3) The qualifying disaster event occurred after the crop was harvested;

(4) FSA or RMA have previously disapproved a notice of loss for the crop and disaster event, unless that notice of loss was disapproved solely because it was filed after the applicable deadline; or

(5) The cause of loss was due to:

(i) Conditions or events occurring outside of the applicable growing season for the crop;

(ii) Insect infestation;

(iii) Water contained or released by any governmental, public, or private dam or reservoir project if an easement exists on the acreage affected by the containment or release of the water;

(iv) Failure of a power supply or brownout; or

(v) Failure to harvest or market the crop due to lack of a sufficient plan or resources.

(b) [Reserved]

§ 760.1807 Miscellaneous provisions.

(a) All persons with a financial interest in a legal entity receiving payments under this subpart are jointly and severally liable for any refund, including related charges, that is determined to be due to FSA for any reason.

(b) In the event that any application under this subpart resulted from

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erroneous information or a miscalculation, the payment will be recalculated and any excess refunded to FSA with interest to be calculated from the date of the disbursement.

(c) Any payment to any participant under this subpart will be made without regard to questions of title under State law, and without regard to any claim or lien against the commodity, or proceeds, in favor of the owner or any other creditor except agencies of the U.S. Government. The regulations governing offsets and withholdings in part 3 of this chapter apply to payments made under this subpart.

(d) Any participant entitled to any payment may assign any payment(s) in accordance with regulations governing the assignment of payments in part 3 of this chapter.

(e) The regulations in parts 11 and 780 of this title apply to determinations under this subpart.

§ 760.1808 General provisions.

(a) Eligibility and payments under this subpart will be determined based on the county where the affected production was harvested.

(b) FSA county committees will make any necessary adjustments to the applicant's affected production and other information on the application form used to calculate a payment when the county committee determines:

(1) Additional documentation has been requested by FSA but has not been provided by the participant;

(2) The loss is due to an ineligible cause; or

(3) The participant has a contract providing a guaranteed payment for all or a portion of the crop.

(c) Unless otherwise specified, all eligibility provisions of part 1437 of this title also apply to tropical crops for eligibility under this subpart.

(d) FSA will use the most reliable data available at the time payments under this subpart are calculated. If additional data or information is provided or becomes available after a payment is issued, FSA will recalculate the payment amount and the producer must return any overpayment amount to FSA. In all cases, payments can only issue based on the payment formula for losses that affirmatively occurred.

(e) Production that is commingled between counties, crop years, or ineligible and eligible acres before it was a matter of record or combination of record and cannot be separated by using records or other means acceptable to FSA will be prorated to each respective year, county, or type of acreage, respectively.

§ 760.1809 Payment and adjusted gross income limitation.

(a) A person or legal entity, other than a joint venture or general partnership, is eligible to receive, directly or indirectly, payments of not more than $125,000 for each of the 2018, 2019, and 2020 crop years under this subpart.

(b) Payments made to a joint operation, including a joint venture or general partnership, cannot exceed the amount determined by multiplying the maximum payment amount specified in paragraph (a) of this section by the number of persons and legal entities, other than joint operations, that comprise the ownership of the joint operation.

(c) The direct attribution provisions in § 1400.105 of this title apply to payments under this subpart.

(d) The notification of interest provisions in § 1400.107 of this title apply to payments under this subpart.

(e) The provisions for recognizing persons added to a farming operation for payment limitation purposes as described in § 1400.104 of this title apply to payments under this subpart.

(f) The $900,000 average AGI limitation provisions in part 1400 of this title relating to limits on payments for persons or legal entities, excluding joint ventures and general partnerships, apply to each applicant for the QLA Program unless at least 75 percent of the person or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. A person's or legal entity's average AGI for each of the program years 2018, 2019 or 2020, is determined by using the average of the adjusted gross incomes for the 3 taxable years preceding the most immediately preceding taxable year. If the person's or legal entity's average AGI is below $900,000 or at least 75 percent of the person or legal entity's average AGI is derived from farming, ranching, or forestry-related activities, the person or legal entity, is eligible to receive payments under this subpart.

§ 760.1810 Time and method of application.

(a) A completed FSA–898, Quality Loss Adjustment (QLA) Program Application, must be submitted in person, by mail, email, or facsimile to any FSA county office by the close of business on March 5, 2020.

(b) An application submitted in accordance with paragraph (a) of this section is not considered valid and complete for issuance of payment under this subpart unless FSA determines all the applicable eligibility provisions have been satisfied and the producer has submitted all of following by March 19, 2020:

(1) Documentation required by § 760.1811;

(2) FSA–578, Report of Acreage, for all acreage for any crop for which payments under this subpart are requested;

(3) FSA–895, Crop Insurance and/or NAP Coverage Agreement; and

(4) For forage crops, FSA–899, Historical Nutritional Value Weighted Average Worksheet, if verifiable documentation of historical nutrient factors is available.

(c) In addition to the forms listed in paragraph (b) of this section, applicants must also submit all the following eligibility forms within 60 days from the date of signing the QLA Program application if not already on file with FSA:

(1) AD–1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation Certification;

(2) CCC–902 Automated, Farm Operating Plan for Payment Eligibility 2009 and Subsequent Program Years;

(3) CCC–941 Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information; and

(4) CCC–942 Certification of Income from Farming, Ranching and Forestry Operations, if applicable.

(d) Failure to submit all required forms by the applicable deadlines in paragraphs (b) and (c) of this section may result in no payment or a reduced payment.

(e) Application approval and payment by FSA does not relieve a participant from having to submit any form required, but not filed, according to this section.

(f) Once signed by a producer, the application is considered to contain information and certifications of and pertaining to the producer regardless of who entered the information on the application.

(g) The producer applying for payment under this subpart certifies the accuracy and truthfulness of the information provided in the application as well as any documentation filed with or in support of the application. All information is subject to verification or spot check by FSA at any time, either before or after payment is issued. Refusal to allow FSA or any agency of the USDA to verify any information provided will result in the participant's forfeiting eligibility for payment under this subpart. FSA may at any time, including before, during, or after processing and paying an application, require the producer to submit any additional information necessary to implement or determine any eligibility

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provision of this subpart. Furnishing information specified in this subpart is voluntary; however, FSA may choose not to act on the application or approve payment if the required information is not provided. Providing a false certification will result in ineligibility and can also be punishable by imprisonment, fines, and other penalties.

§ 760.1811 Required documentation and verification.

(a) If requested by FSA, an applicant must provide documentation that establishes the applicant's ownership share and value at risk in the crop.

(b) The applicant must provide acceptable documentation that is dated and contains all information required to substantiate the applicant's certification to the satisfaction of the FSA county committee. Verifiable documentation is required to substantiate the total dollar value loss and associated affected production, grading factors, and nutritional factors. FSA may verify the records with records on file at the warehouse, gin, or other entity that received or may have received the reported production. Reliable production records are required to substantiate the reported amount of affected production for applications not based on the total dollar value loss.

(c) To be considered acceptable, verifiable documentation for grain crops that were sold may come from any time between harvest and sale of the affected production, unless the FSA county committee determines the record is not representative of the condition within 30 days of harvest. For all other crops, the verifiable documentation must come from tests or analysis completed within 30 days of harvest, unless the FSA county committee determines that the record is representative of the condition of the affected production at time of harvest. Examples of acceptable records for purposes of this paragraph (c) include:

(1) Warehouse grading sheets;

(2) Settlement sheets;

(3) Sales receipts showing grade and price or disposition to secondary market due to quality; and

(4) Laboratory test results.

(d) For forage crops, producers must submit verifiable documentation showing the nutrient factors for the affected production. Producers must also submit verifiable documentation of the historical nutrient factors for the 3 preceding crop years if available. The nutrient factors that must be documented for a crop will determined by the FSA county committee based on the standard practice for the crop in that county.

(e) For all crops other than forage crops, producers must submit verifiable documentation of the total dollar value loss due to quality, if available, and verifiable documentation of grading factors due to quality.

(f) The participant is responsible for:

(1) Retaining, providing, and summarizing, at time of application and whenever required by FSA, the best available verifiable production records for the crop;

(2) Providing the information in a manner that can be easily understood by the FSA county committee; and

(3) Providing supporting documentation about the disaster event if the FSA county committee has reason to question the disaster event.

(e) Participants must provide all records for any production of a crop that is grown with an arrangement, agreement, or contract for guaranteed payment.

(f) Participants are required to retain documentation in support of their application for 3 years after the date of approval.

(g) Participants receiving QLA Program payments or any other person who furnishes such information to USDA must permit authorized representatives of USDA or the Government Accountability Office, during regular business hours, to enter the agricultural operation and to inspect, examine, and make copies of books, records, or other items for the purpose of confirming the accuracy of the information provided by the participant.

§ 760.1812 Payment calculation.

(a) Payments will be calculated separately for crops based on the crop type, intended use, certified organic or conventional status, county, and crop year.

(b) For forage crops with verifiable documentation of nutrient factors for the affected production and for the 3 preceding crop years, the payment will be equal to the producer's total affected production multiplied by the producer's verifiable percentage of loss, multiplied by the average market price, multiplied by 70 percent.

(c) For forage crops with verifiable documentation of nutrient factors for the affected production but not for the 3 preceding crop years, the payment will be equal to the producer's total affected production multiplied by the county average percentage of loss in paragraph (f) of this section, multiplied by the average market price, multiplied by 70 percent, multiplied by 50 percent.

(d) For crops other than forage with verifiable documentation of the total dollar value loss due to quality, the payment will be equal to the producer's total dollar value loss on the affected production, multiplied by 70 percent.

(e) For crops other than forage without verifiable documentation of the total dollar value loss but with verifiable documentation of grading factors, the payment will be equal to the producer's affected production multiplied by the county average loss per unit of measure in paragraph (g) of this section, multiplied by 70 percent, multiplied by 50 percent.

(f) The county average percentage of loss is the average percentage of loss from producers eligible for payment under paragraph (b) of this section if at least 5 producers in a county are eligible for payment for a crop under paragraph (b) of this section. If less than 5 producers in a county are eligible for payment for a crop under paragraph (b) of this section, the Deputy Administrator will:

(1) Determine a county average percentage of loss based on the best available data, including, but not limited to, evidence of losses in contiguous counties; or

(2) If a county average percentage of loss cannot be determined due to insufficient data, not issue payments to applicants under paragraph (c) of this section.

(g) The county average loss per unit of measure is based on the weighted average sales price from producers eligible for payment under paragraph (d) of this section if at least 5 producers in a county are eligible for payment for a crop under paragraph (d) of this section. If less than 5 producers are eligible for payment in a county under paragraph (d) of this section, the Deputy Administrator will:

(1) Determine a county average loss per unit of measure based on the best available data, including, but not limited to, evidence of losses in contiguous counties; or

(2) If a county average loss per unit of measure cannot be determined due to insufficient data, not issue payments to applicants under paragraph (e) of this section.

§ 760.1813 Availability of funds and timing of payments.

(a) Payments will be issued after the application period has ended and all applications have been reviewed by FSA.

(b) In the event that, within the limits of the funding made available by the Secretary, approval of eligible applications would result in payments

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in excess of the amount available, FSA will prorate payments by a national factor to reduce the payments to an amount that is less than available funds as determined by the Secretary.

(c) Applications and claims that are unpaid or prorated for any reason will not be carried forward for payment under other funds for later years or otherwise, but will be considered, as to any unpaid amount, void and nonpayable.

§ 760.1814 Requirement to purchase crop insurance or NAP coverage.

(a) For the first 2 consecutive crop years for which crop insurance or NAP coverage is available after the enrollment period for the QLA Program ends, a participant who receives payment under this subpart for a crop loss in a county must obtain:

(1) For an insurable crop, crop insurance with at least a 60 percent coverage level for that crop in that county; or

(2) For a NAP-eligible crop, NAP coverage with a coverage level of 60 percent.

(b) Participants who exceed the average adjusted gross income limitation for NAP payment eligibility [1] for the applicable crop year may meet the purchase requirement specified in paragraph (a)(2) of this section by purchasing Whole-Farm Revenue Protection crop insurance coverage, if eligible, or paying the NAP service fee and premium even though the participant will not be eligible to receive a NAP payment due to the average adjusted gross income limit.

(c) The final crop year to purchase crop insurance or NAP coverage to meet the requirements of paragraph (a) of this section is the 2023 crop year.

(d) A participant who obtained crop insurance or NAP coverage for the crop in accordance with the requirements for WHIP+ in § 760.1517 is considered to have met the requirement to purchase crop insurance or NAP coverage for the QLA Program.

(e) If a producer fails to obtain crop insurance or NAP coverage as required in this section, the producer must reimburse FSA for the full amount of QLA Program payment plus interest. A producer will only be considered to have obtained NAP coverage for the purposes of this section if the participant submitted a NAP application for coverage and paid the requisite NAP service fee and any applicable premium by the applicable deadline and completed all program requirements required under the coverage agreement, including filing an acreage report.

Richard Fordyce,

Administrator, Farm Service Agency.

[FR Doc. 2020–28914 Filed 1–5–21; 8:45 am]

BILLING CODE 3410–05–P

[1] See §§ 1400.500(a) and 1400.1(a)(4) of this title.

DEPARTMENT OF ENERGY

10 CFR Part 1061

RIN 1990–AA50

Procedures for the Issuance of Guidance Documents

AGENCY: Office of the General Counsel, Department of Energy.

ACTION: Final rule.

SUMMARY: The U.S. Department of Energy (DOE) publishes this final rule to establish procedures for the issuance of DOE guidance documents in accordance with Executive Order 13891. In this final rule, DOE establishes internal agency requirements for the contents of guidance documents, and procedures for providing notice of, and soliciting public comment on, certain guidance documents. This final rule also establishes procedures for the public to petition DOE to modify or withdraw guidance documents.

DATES: The effective date of this rule is February 5, 2021.

ADDRESSES: The docket for this rulemaking, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *https://www.regulations.gov*. All documents in the docket are listed in the *https://www.regulations.gov* index. However, not all documents listed in the index, such as those containing information that is exempt from public disclosure by law, may be publicly available. A link to the docket web page can be found at *https://www.regulations.gov/document?D=DOE-HQ-2020-0033-0001*. The docket web page explains how to access all documents, including public comments, in the docket.

FOR FURTHER INFORMATION CONTACT: Mr. Matthew Ring, U.S. Department of Energy, Office of the General Counsel, Forrestal Building, GC–33, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–2555, Email: *Guidance@hq.doe.gov*.

SUPPLEMENTARY INFORMATION:

I. Summary of Final Rule

In this final rule, DOE incorporates into the Code of Federal Regulations a new 10 CFR part 1061, which implements the requirements of Executive Order 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents.'' (84 FR 55235 (Oct. 15, 2019)) Among other things, Executive Order 13891 requires agencies to provide more transparency for their guidance documents by creating a searchable online database for current guidance documents,[1] and by establishing procedures to allow the public to comment on significant guidance documents and to petition the agency to withdraw or modify guidance documents.[2] Moreover, the Executive Order requires agencies to clearly state in their guidance documents that such guidance does not have the force and effect of law and is not legally binding, except as authorized by law or as incorporated into a contract. (84 FR 55235, 55237)

This final rule applies to all DOE guidance documents, as defined by Executive Order 13891, including the exceptions listed in section 2 of the Executive Order. This final rule also lists specific types of documents and communications that fall within the broader exceptions listed in the Executive Order (*e.g.,* speeches and presentations given by DOE officials, legal positions taken in litigation or enforcement actions). (See also OMB M–20–02, Guidance Implementing Executive Order 13891, Titled ''Promoting the Rule of Law Through Improved Agency Guidance Documents'' (Oct. 31, 2019), available at *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*). This final rule also adopts the same definition of ''significant guidance document'' as section 2 of Executive Order 13891.

In accordance with Executive Order 13891, this final rule requires that all DOE guidance documents clearly state that they do not have the force and effect of law and are not legally binding on the public, and that they are only intended to provide clarity to the public

[1] DOE's online database may be found at *energy.gov/guidance*.

[2] Executive Order 13891 defines ''significant guidance document'' as ''a guidance document that may reasonably be anticipated to: (i) Lead to an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (ii) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (iii) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (iv) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles of Executive Order 12866.'' (84 FR 55235, 55236)

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An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

Elizabeth K. Appel,

Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2021–00317 Filed 1–8–21; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–OIA–31249; PIN00IO14.XI0000]

U.S. Nominations to the World Heritage List; 15-Day Notice of Opportunity for Public Comment

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: This notice requests public comment on the next potential U.S. nominations from the U.S. World Heritage Tentative List (''Tentative List'') to the United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage List. The public may also make suggestions for future additions to the Tentative List. This notice complies with applicable World Heritage Program regulations.

DATES: Comments will be accepted on or before January 26, 2021.

ADDRESSES: You may submit comments by either of the following methods:

- *Mail to:* Jonathan Putnam, Office of International Affairs, National Park Service, 1849 C Street NW, Washington, DC 20240.
- *Email to: jonathan_putnam@nps.gov*. Phone: (202) 354–1809.

Comments will not be accepted in any way other than those specified above.

Information on the U.S. World Heritage program can be found at: *https://www.nps.gov/subjects/internationalcooperation/worldheritage.htm*.

To request a paper copy of the U.S Tentative List, please contact April Brooks, Office of International Affairs, National Park Service, 1849 C Street NW, Room 2415, Washington, DC 20240 (202) 354–1808, or Email: *april_brooks@nps.gov*.

FOR FURTHER INFORMATION CONTACT: Jonathan Putnam, (202) 354–1809.

For the World Heritage nomination format, see the World Heritage Centre website at: *http://whc.unesco.org/en/nominations*.

SUPPLEMENTARY INFORMATION:

Background

The World Heritage List is an international list of cultural and natural properties nominated by the signatories to the World Heritage Convention (1972), an international treaty for the preservation of natural and cultural heritage sites of global significance. U.S. participation and the roles of the Department of the Interior and the National Park Service are authorized by Title IV of the Historic Preservation Act Amendments of 1980 and conducted in accordance with 36 CFR part 73—World Heritage Convention. The National Park Service serves as the principal technical agency for the U.S. Government to the Convention.

A Tentative List is a national list of natural and cultural properties appearing to meet the World Heritage Committee eligibility criteria for nomination to the World Heritage List. It is a list of candidate sites which a country may consider for nomination within a given time period, but does not guarantee future nomination. The World Heritage Committee's *Operational Guidelines* ask participating nations to provide Tentative Lists, which aid in evaluating properties for the World Heritage List on a comparative international basis and help the Committee to schedule its work over the long term. A country cannot nominate a property unless it has been on its Tentative List for a minimum of a year. Countries also are limited at this time to nominating no more than one site in any given year.

Neither inclusion in the Tentative List nor inscription as a World Heritage Site imposes legal restrictions on owners or neighbors of sites, nor does it give the United Nations any management authority or ownership rights in U.S. World Heritage Sites, which continue to be subject to U.S. laws.

Current U.S. World Heritage Tentative List

The current U.S. World Heritage Tentative List includes the following properties:

Cultural Sites

Civil Rights Movement Sites, Alabama [other properties would be added for a complete nomination]

—Dexter Avenue King Memorial Baptist Church, Montgomery
—Bethel Baptist Church, Birmingham
—16th Street Baptist Church, Birmingham

Dayton Aviation Sites, Ohio

—Dayton Aviation Heritage National Historical Park

Hopewell Ceremonial Earthworks, Ohio

—Fort Ancient State Memorial, Warren County
—Hopewell Culture National Historical Park, near Chillicothe
—Newark Earthworks State Historic Site, Newark and Heath

Jefferson (Thomas) Buildings, Virginia (Proposed Jointly as an Extension to the World Heritage Listing of Monticello and the University of Virginia Historic District)

—Poplar Forest, Bedford County
—Virginia State Capitol, Richmond

Mount Vernon, Virginia

Serpent Mound, Ohio

Ellis Island, New Jersey and New York

Chicago Early Skyscrapers, Illinois, including: [Other Properties May Be Added in the Course of Developing a Nomination]

—Rookery
—Auditorium Building
—Monadnock Building
—Ludington Building
—Marquette Building
—Old Colony Building
—Schlesinger & Mayer (Carson, Pirie Scott) Department Store
—Second Leiter Building
—Fisher Building

Central Park, New York

Brooklyn Bridge, New York

Moravian Bethlehem District, Pennsylvania

Natural Sites

National Marine Sanctuary of American Samoa (Formerly Fagatele Bay National Marine Sanctuary, American Samoa)

Okefenokee National Wildlife Refuge, Georgia

Petrified Forest National Park, Arizona

White Sands National Monument, New Mexico

Marianas Trench National Monument, U.S. Territory, Commonwealth of the Northern Mariana Islands, Guam

Central California Current, California, Including

—Cordell Bank National Marine Sanctuary
—Monterey Bay National Marine Sanctuary
—Greater Farallones National Marine Sanctuary
—Farallon Islands National Wildlife Refuge

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NM-OTERO-21-0275-A-000482

—Point Reyes National Seashore
—Golden Gate National Recreation Area

Big Bend National Park, Texas

Pacific Remote Islands National Monument, U.S. Territorial Waters

Notes: (1) A nomination for the Hopewell Ceremonial Earthworks was authorized for preparation in May 2018 by the Department of the Interior and is now under development. (2) The Department has requested and is now awaiting advice from the International Council on Monuments and Sites (ICOMOS) on adding other properties to the proposal for the Civil Rights Movement Sites and its overall justification. (3) The government of the German state of Saxony is proposing an extension to the World Heritage listing of Christiansfeld, a Moravian Church Settlement in Denmark, that would include Herrnhut in Germany, the Moravian Bethlehem District in Bethlehem, Pennsylvania, and potentially other historic Moravian settlements in other countries.

Request for Public Comments

Comments on whether to authorize the preparation of a World Heritage nomination for any of the properties on the Tentative List should address the readiness and ability of the property owner(s) to prepare a satisfactory nomination document. Suggestions for additions to the Tentative List not previously submitted must address: (i) How the property(ies) would meet the World Heritage nomination criteria, requirements for authenticity, integrity, legal protection and management. Information on these criteria and requirements can be found on the website noted in the **FOR FURTHER INFORMATION CONTACT** section of this notice; and (ii) The U.S. legal prerequisites that include the agreement of all property owners to the nomination of their property, an official determination that the property is nationally significant (such as by designation as a National Historic or National Natural Landmark), and effective legal protection. All previous suggestions for the Tentative List made during previous comment periods or otherwise submitted since 2008, have been retained and considered and should not be resubmitted at this time.

Selection and Nomination

All public comments will be summarized and provided to Department of the Interior officials, who will obtain the advice of the Federal Interagency Panel for World Heritage before making any selection of properties for authorization to prepare a World Heritage nomination. The selection may include relevant factors, such as the likelihood of being able to complete a satisfactory nomination, and the fact that the United States is currently prohibited by law from providing any funding to UNESCO, including UNESCO and World Heritage member dues. Once authorized, the property owners may prepare a draft nomination.

The Department does not have a fixed schedule for completing or submitting World Heritage nominations. No more than one nomination from any country may be submitted per year, per the UNESCO World Heritage *Operational Guidelines.* Completed nominations, if approved by the Department for submission, may be submitted to the UNESCO World Heritage Centre by February 1 of any year.

Public Availability of Comments

All comments will be a matter of public record. Before including an address, phone number, email address, or other personal identifying information in a comment, members of the public should be aware that the entire comment—including personal identifying information—may be made public at any time. While commenters can request that personal identifying information be withheld from public review, it may not be possible to comply with this request.

Authority: 54 U.S.C. 307101; 36 CFR part 73.

George Wallace,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2021–00310 Filed 1–8–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#-31331; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before December 25, 2020, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by January 26, 2021.

ADDRESSES: Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line ''Public Comment on property or proposed district name, (County) State.'' If you have no access to email you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before December 25, 2020. Pursuant to Section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State or Tribal Historic Preservation Officers:

CALIFORNIA

Orange County

Johnson, Hugh Edgar, House, 444 W. Brookdale Pl., Fullerton, SG100006089

FLORIDA

Monroe County

Matecumbe Methodist Church Cemetery, 81801 Overseas Hwy., Islamorada, SG100006117

Pinellas County

House at 827 Mandalay Avenue, 827 Mandalay Ave., Clearwater, SG100006118

Sumter County

Wild Cow Prairie Cemetery, 5822 Cty. Rd. 673, Bushnell vicinity, SG100006119

Volusia County

Wright, James W., Building, 258 West Voorhis Ave., DeLand, SG100006120

Walton County

Herman Lodge No. 108 Free & Accepted Masons of Florida, 314 Madison St., Freeport, SG100006121

ILLINOIS

Cook County

Irving, James B., House, 2771 Crawford Ave., Evanston, SG100006102

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7910–00–685–6660—Pad, Machine, Scrubbing, Floor, 17″ x ¼″
7910–00–685–6671—Pad, Machine, Polishing, Floor, 15″ x ¼″
7910–00–685–6672—Pad, Machine, Polishing, Floor, 17″ x ¼″
7910–00–685–6686—Pad, Machine, Polishing, Floor, 12″ x ¼″
7910–00–685–6687—Pad, Machine, Polishing, Floor, 13″ x ¼″
7910–00–820–7989—Pad, Floor, Buffing, Nylon, Tan, 15″
7910–00–NIB–0006—Pad, Floor, Burnishing, Animal Hair, Gray, 17″
7910–00–NIB–0009—Pad, Floor, Burnishing, Animal Hair, Gray, 21″
7910–00–NIB–0016—Pad, Floor, Polishing, Animal Hair, Beige, 17″
7910–00–NIB–0029—Pad, Floor, Buffing, Polyester, Red, 14″
7910–00–NIB–0030—Pad, Floor, Buffing, Polyester, Red, 15″
7910–00–NIB–0034—Pad, Floor, Scrubbing, Polyester, Blue, 14″
7910–00–NIB–0040—Pad, Floor, Scrubbing, Polyester, Blue, 21″
7910–01–512–5933—Pad, Floor, Stripping, Polyester, Brown, 17″
7910–01–512–5937—Pad, Floor, Scrubbing, Polyester, Blue, 13″
7910–01–512–5950—Pad, Floor, Scrubbing, Polyester, Blue, 17″

Designated Source of Supply: Beacon Lighthouse, Inc., Wichita Falls, TX
Contracting Activity: GSA/FSS Greater Southwest ACQUISITI, Fort Worth, TX

Michael R. Jurkowski,

Deputy Director, Business & PL Operations.

[FR Doc. 2021–00151 Filed 1–7–21; 8:45 am]

BILLING CODE 6353–01–P

COUNCIL ON ENVIRONMENTAL QUALITY

Guidance Document Online Portal

AGENCY: Council on Environmental Quality.

ACTION: Notice of online portal for agency guidance documents.

SUMMARY: In accordance with Executive Order (E.O.) 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' dated October 9, 2019, and Office of Management and Budget (OMB) Memorandum M–20–02, dated October 31, 2019, the Council on Environmental Quality (CEQ) is providing notice of where the public may access CEQ guidance documents.

ADDRESSES: The portal may be found at *https://www.whitehouse.gov/ceq/resources/*.

FOR FURTHER INFORMATION CONTACT: Amy B. Coyle, Deputy General Counsel, Council on Environmental Quality, 730 Jackson Place NW, Washington, DC 20503, 202–395–5750, *amy.b.coyle@ceq.eop.gov*.

SUPPLEMENTARY INFORMATION: E.O. 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' [1] requires that each agency establish or maintain on its website a single, searchable, indexed database that contains or links to all agency guidance documents [2] in effect. In accordance with E.O. 13891 and OMB's implementing guidance, set forth in OMB Memorandum M–20–02,[3] CEQ has complied with this requirement through its website portal, which is available to the public at *whitehouse.gov/ceq/resources*.[4] As required by E.O. 13891, the website also reiterates that: (1) The contents of the guidance documents accessed through the portal lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract; and (2) these documents are intended only to provide clarity to the public regarding existing requirements under statutes and regulations administered by CEQ. Under the E.O., CEQ may not cite, use, or rely on any guidance document that is not posted on or linked to the website portal, except to establish historical facts.

CEQ will also include on its website portal a link to its final rule establishing CEQ's internal agency procedures for issuing guidance documents, required by section 4 of E.O. 13891. The final rule relating to CEQ's guidance document procedures is published elsewhere in this issue of the **Federal Register**.

Authority: 42 U.S.C. 4321–4347; 42 U.S.C. 4371–4375; and E.O. 13891, 84 FR 55235.

Mary B. Neumayr,

Chairman.

[FR Doc. 2020–28879 Filed 1–7–21; 8:45 am]

BILLING CODE 3125–F1–P

[1] 84 FR 55235 (Oct. 15, 2019).

[2] E.O. 13891 defines ''guidance document'' as ''an agency statement of general applicability, intended to have future effect on the behavior of regulated parties, that sets forth a policy on a statutory, regulatory, or technical issue, or an interpretation of a statute or regulation. . . .'' *Id.*

[3] OMB issued its guidance memorandum on October 31, 2019. *See* M–20–02, Guidance Implementing Executive Order 13891, Titled ''Promoting the Rule of Law Through Improved Agency Guidance Documents'' (Oct. 31, 2019), *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*.

[4] CEQ's website portal at *https://www.whitehouse.gov/ceq/resources/* includes links to CEQ guidance documents and resources, some of which are provided on nepa.gov (*https://www.energy.gov/nepa/ceq-guidance-documents*) and sustainability.gov (*https://www.sustainability.gov/resources.html*).

DEPARTMENT OF EDUCATION

[Docket No. ED–2020–SCC–0167]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before February 8, 2021.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Find this information collection request by selecting ''Department of Education'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox. Comments may also be sent to *ICDocketmgr@ed.gov*.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, (202) 377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note

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PART 220—[REMOVED]

■ Accordingly, for the reasons stated in the preamble and under the authority of 5 U.S.C. 301, the Corps removes 33 CFR part 220.

R.D. James,

Assistant Secretary of the Army (Civil Works).

[FR Doc. 2020–27908 Filed 1–7–21; 8:45 am]

BILLING CODE 3720–58–P

COUNCIL ON ENVIRONMENTAL QUALITY

40 CFR Part 1519

RIN 0331–AA04

Guidance Document Procedures

AGENCY: Council on Environmental Quality.

ACTION: Final rule.

SUMMARY: Pursuant to Executive Order (E.O.) 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' this final rule establishes the process that the Council on Environmental Quality (CEQ) will follow for issuing guidance documents. E.O. 13891 requires Federal agencies to finalize regulations or amend existing regulations to establish processes and procedures for issuing guidance documents.

DATES: This rule is effective January 8, 2021.

FOR FURTHER INFORMATION CONTACT: Amy B. Coyle, Deputy General Counsel, Council on Environmental Quality, 730 Jackson Place NW, Washington, DC 20503, (202) 395–5750, *amy.b.coyle@ceq.eop.gov*.

SUPPLEMENTARY INFORMATION:

On October 9, 2019, President Trump issued E.O. 13891,[1] which addresses the development, use, and public availability of agency guidance documents. It requires agencies to promulgate or update existing regulations setting forth their procedures for issuing guidance documents. In accordance with section 6 of E.O. 13891, on October 31, 2019, the Office of Management and Budget (OMB) issued memorandum M–20–02, ''Guidance Implementing Executive Order 13891, Titled 'Promoting the Rule of Law Through Improved Agency Guidance Documents' '' (OMB M–20–02)[2] to provide guidance and implement the Executive order. OMB M–20–02 provides agencies with additional instruction on how to implement E.O. 13891, including the required rulemaking.

I. Summary of Final Rule

In this final rule, CEQ adds a new part 1519 to the Code of Federal Regulations to set out its procedures for the development and issuance of guidance documents consistent with the direction and reflecting the policies described in E.O. 13891 and OMB M–20–02.

A. Section 1519.1, ''Purpose''

Section 1519.1, ''Purpose,'' states that the purpose of part 1519 is to implement E.O. 13891, and explains CEQ's process for developing and issuing guidance.

B. Section 1519.2, ''Guidance Document Procedures''

Section 1519.2, ''Guidance document procedures,'' defines ''guidance documents'' in paragraph (a) and describes documents that do not meet that definition in paragraph (b), consistent with section 2(b)[3] of the E.O. and Q2 of OMB M–20–02.

Paragraph (c) of § 1519.2 lists the minimum requirements for any document meeting the definition of a guidance document consistent with Q22 of OMB M–20–02, including a title, unique identification number, date, indication of whether it revises or replaces prior guidance, summaries, and legal citations. Additionally, consistent with section 4(i) of E.O. 13891, paragraph (c)(6) includes a requirement that each guidance document clearly state that it does not bind the public, except as authorized by law or as incorporated into a contract.

Paragraph (c)(11) of § 1519.2 specifies that any guidance document must be posted on CEQ's website. E.O. 13891 also directed Federal agencies to make guidance documents publicly available in an indexed, searchable database online. As described in the **Federal Register** notice published today, CEQ has complied with this requirement through its website *whitehouse.gov/ceq/resources*.[4] As noted on this website, CEQ may not cite, use, or rely on any guidance that is not posted on its web pages except to establish historical facts. CEQ also makes clear that CEQ's guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract.

Finally, paragraph (d) of § 1519.2 requires the CEQ Office of the General Counsel to review and clear all guidance documents before CEQ issues them.

C. Section 1519.3, ''Procedures for the Public To Request Withdrawal or Modification of a Guidance Document''

Consistent with section 4(ii) of E.O. 13891, § 1519.3, ''Procedures for the public to request withdrawal or modification of a guidance document,'' addresses the process for members of the public to petition CEQ to withdraw or modify a particular guidance document, including designation of the Office of the General Counsel as the office within CEQ to which the public should direct such petitions. CEQ intends to provide additional instructions on its guidance website, including appropriate contact information and format of the petitions.

D. Section 1519.4, ''Significant Guidance Documents''

Finally, § 1519.4, ''Significant guidance documents,'' addresses specific requirements for a subset of ''guidance documents'' that are ''significant guidance documents'' as defined by section 2(c) of E.O. 13891. Paragraph (a) sets forth that definition. OMB's Office of Information and Regulatory Affairs (OIRA) makes the final determination of whether a guidance document is significant. If OIRA makes such a determination for a particular guidance document, this section will also apply. Consistent with section 4(iii) of E.O. 13891, paragraph (b) sets forth procedural requirements, including public notice and comment for at least 30 days, unless an exception applies; public response to major concerns raised in comments; approval on a non-delegable basis by the Chairman, or an official acting as Chairman; review by OIRA under Executive Order 12866; and compliance with the applicable requirements for regulations or rules.

II. Rulemaking Analyses and Notices

A. Regulatory Procedures

Under the Administrative Procedure Act, an agency may waive notice and comment procedures if an action is an interpretative rule, a general statement of policy, or a rule of agency organization, procedure, or practice. *See* 5 U.S.C. 553(b)(A). This rule describes the internal process that CEQ will follow to comply with the requirements specified in E.O. 13891 when issuing guidance documents as defined by the

[1] 84 FR 55235 (Oct. 15, 2019).

[2] OMB M–20–02 is available at *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*.

[3] E.O. 13891 section 2(b) lists the following as exclusions to the definition of guidance document. 84 FR at 55235–36.

[4] CEQ's website, *whitehouse.gov/ceq/resources*, includes links to CEQ guidance documents and resources, some of which are provided on *nepa.gov* and *sustainability.gov*.

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E.O. Because this rule is one of agency organization, procedure, or practice, it is exempt from the requirement to provide prior notice and opportunity for public comment.

B. Regulatory Planning and Review (E.O. 12866 and E.O. 13563)

E.O. 12866 provides that OIRA will review all significant rules. E.O. 13563 reaffirms the principles of E.O. 12866, calling for improvements in the Federal government's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory objectives. OMB determined that this final rule does not meet the requirements for a significant regulatory action under E.O. 12866, as supplemented by E.O. 13563, and therefore it was not subject to review.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, as amended (RFA), 5 U.S.C. 601 *et seq.,* and E.O. 13272 do not apply to this rulemaking because it is not subject to the notice and comment requirements of 5 U.S.C. 553(b).

D. Unfunded Mandates Reform Act

A statement containing the information required by the Unfunded Mandates Reform Act, 2 U.S.C. 1531 *et seq.,* is not required. This rule will not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year, and it will not have a significant or unique effect on State, local, or Tribal governments, or the private sector.

E. Reducing Regulation and Controlling Regulatory Costs (E.O. 13771)

This rule is not an E.O. 13771 regulatory action because this rule is not significant under E.O. 12866.

F. Federalism (E.O. 13132)

Under the criteria in section 1 of E.O. 13132, this rule will not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement because it will not substantially and directly affect the relationship between the Federal and State governments.

G. National Environmental Policy Act

The purpose of this rulemaking is to formalize the CEQ's administrative procedures for issuing guidance documents, as required by E.O. 13891. CEQ has determined that the final rule is a non-major Federal action under the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.,* and would not have any effect on the environment because it merely outlines internal CEQ administrative procedures and does not authorize any activity or commit resources to a project that may affect the environment.

H. Paperwork Reduction Act

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This rule will not impose recordkeeping or reporting requirements on State, local, or Tribal governments, individuals, businesses, or organizations.

List of Subjects in 40 CFR Part 1519

Administrative practice and procedure, Guidance.

Mary B. Neumayr,
Chairman.

■ For the reasons stated in the preamble, the Council on Environmental Quality adds 40 CFR part 1519 as follows:

PART 1519—GUIDANCE DOCUMENTS

Sec.
1519.1 Purpose.
1519.2 Guidance document procedures.
1519.3 Procedures for the public to request withdrawal or modification of a guidance document.
1519.4 Significant guidance documents.

Authority: 42 U.S.C. 4321–4347; 42 U.S.C. 4371–4375; and E.O. 13891, 84 FR 55235.

§ 1519.1 Purpose.

(a) This part implements Executive Order 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' and reflects the policies described in that order. The provisions in this part address the Council on Environmental Quality's procedures for the development and issuance of agency guidance documents. This part explains what constitutes guidance documents, and sets forth the minimum requirements for guidance documents, the procedures to request withdrawal or modification of guidance documents, and the additional requirements and procedures for significant guidance documents.

(b) This part is intended to improve the internal management of the Council on Environmental Quality. It is not intended to and does not create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its agencies or other entities, its officers or employees, or any other person.

(c) If Executive Order 13891 or any provision thereof is rescinded or superseded, this part remains in effect.

§ 1519.2 Guidance document procedures.

(a) *Definition of guidance documents.* For purposes of this part, guidance documents are agency statements of general applicability, intended to have future effect on the behavior of regulated parties, that set forth a policy on a statutory, regulatory, or technical issue, or an interpretation of a statute or regulation.

(b) *Documents excluded from the definition of guidance documents.* Guidance documents do not include:

(1) Agency statements of specific, rather than general, applicability.

(2) Agency statements that do not set forth a policy on a statutory, regulatory, or technical issue or an interpretation of a statute or regulation.

(3) Legislative rules promulgated under 5 U.S.C. 553 (or similar statutory provisions), or exempt from rulemaking requirements under 5 U.S.C. 553(a).

(4) Rules of agency organization, procedure, or practice that are not anticipated to have substantial future effect on the behavior of regulated parties or the public.

(5) Decisions of agency adjudication.

(6) Documents or agency statements that are directed solely to the Council on Environmental Quality or other agencies (or personnel of such agencies) that are not anticipated to have substantial future effect on the behavior of regulated parties or the public.

(7) Legal briefs and other court filings.

(8) Legal advice or opinions from the Council on Environmental Quality's Office of the General Counsel.

(9) Categories of guidance documents made exempt from Executive Order 13891 by the Administrator of the Office of Management and Budget's Office of Information and Regulatory Affairs through memoranda issued pursuant to section 4(b) of Executive Order 13891.

(c) *Elements of guidance documents.* In general, each guidance document must:

(1) Provide the title of the guidance document;

(2) Provide a unique document identification number;

(3) Identify the Council on Environmental Quality and any office, as appropriate, issuing the guidance document;

(4) Include the date of issuance;

(5) Include the term ''guidance'';

(6) Include a disclaimer clarifying that it does not have the force and effect of law; is not meant to bind the public in any way; and is intended only to provide clarity to the public regarding

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existing requirements under the law or agency policies. When a guidance document is binding because the law authorizes binding guidance or because a contract incorporates the guidance, the Council on Environmental Quality must modify the disclaimer to reflect accordingly;

(7) If it is a revision to or a replacement of a previously issued guidance document, identify the guidance document that it revises or replaces;

(8) Include a short summary of the subject matter covered in the guidance document at the top of the document;

(9) Identify the activities to which and the persons to whom the guidance document applies;

(10) Include the citation to the statutory provision or regulation to which the guidance document applies or which it interprets; and

(11) Be posted on the Council on Environmental Quality's website.

(d) *Review and clearance.* The Office of the General Counsel must review and clear all proposed guidance documents before issuance.

§ 1519.3 Procedures for the public to request withdrawal or modification of a guidance document.

(a) Any member of the public may petition the Council on Environmental Quality to withdraw or modify a guidance document.

(b) The petitioner must submit the request for the withdrawal or modification of a guidance document in writing to the Office of the General Counsel. The petition must contain a statement of the reasons for the petition and any supporting documents to support the petitioner's request.

(c) Upon receipt of a petition for withdrawal or modification of a guidance document, the Office of the General Counsel will consult with the relevant offices and coordinate the response to the petition.

(d) The Council on Environmental Quality should respond to a petition in writing, including electronically, within 90 days of receipt of a petition. The response should state whether the petition is granted, granted in part and denied in part, denied, or provisionally denied for lack of adequate information. If the petition is provisionally denied for lack of adequate information, the response should indicate what additional information is necessary to adjudicate the petition. The Office of the General Counsel should respond to the petition in writing no later than 90 days after receipt of the necessary additional information. The response should state whether the petition is granted, granted in part and denied in part, or denied.

(e) The Council on Environmental Quality may consider in a coordinated manner or provide a coordinated response to similar petitions for withdrawal or modification.

(f) The Council on Environmental Quality need not respond to petitions under this part for withdrawal or modification of documents that do not meet the definition of a guidance document.

§ 1519.4 Significant guidance documents.

(a) *Significant guidance documents definition.* For the purposes of this section, significant guidance documents are guidance documents that may be reasonably anticipated to:

(1) Lead to an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles of Executive Order 12866.

(b) *Actions the Council on Environmental Quality will take before issuing significant guidance documents.* When the Office of Management and Budget's Office of Information and Regulatory Affairs determines that a guidance document is a significant guidance document, the Council on Environmental Quality must:

(1) Submit the guidance document for review by the Office of Information and Regulatory Affairs under Executive Order 12866;

(2) Publish the draft significant guidance document in the **Federal Register** for a public notice and comment period of at least 30 days;

(i) This provision will not apply if the Council on Environmental Quality for good cause finds that notice and public comment is impracticable, unnecessary, or contrary to the public interest.

(ii) If such a finding is made, the Council on Environmental Quality must incorporate such a finding and a brief statement of its reasoning into the significant guidance document.

(3) Obtain approval on a non-delegable basis from the Chairman or an official who is serving in an acting capacity as the Chairman.

(4) Provide a public response to major concerns raised in comments on the draft significant guidance document.

(5) Announce the availability of the final significant guidance document.

(6) Comply with the applicable requirements for regulations or rules, including significant regulatory actions, set forth in Executive Orders 12866, ''Regulatory Planning and Review,'' 13563, ''Improving Regulation and Regulatory Review,'' 13609, ''Promoting International Regulatory Cooperation,'' 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' and 13777, ''Enforcing the Regulatory Reform Agenda.''

(c) *Exemption.* This section will not apply if the Chairman or an official who is serving in an acting capacity as the Chairman of the Council on Environmental Quality and the Administrator of the Office of Information and Regulatory Affairs agree that exigency, safety, health, or other compelling cause warrants an exemption from some or all requirements.

[FR Doc. 2020–28881 Filed 1–7–21; 8:45 am]

BILLING CODE 3225–F1–P

FEDERAL PERMITTING IMPROVEMENT STEERING COUNCIL

40 CFR Chapter IX

[Agency Docket Number 2020–001]

RIN 3121–AA01

Adding Mining as a Sector of Projects Eligible for Coverage Under Title 41 of the Fixing America's Surface Transportation Act

AGENCY: Federal Permitting Improvement Steering Council.

ACTION: Final rule.

SUMMARY: The Federal Permitting Improvement Steering Council (Permitting Council) has voted to add mining as a sector with infrastructure projects eligible for coverage under Title 41 of the Fixing America's Surface Transportation Act (FAST–41). A new part will be included in the Code of Federal Regulations that adds mining to the list of statutory FAST–41 sectors. The addition of mining as a FAST–41 sector will allow qualified mining infrastructure projects to become FAST–41 covered projects. FAST–41 coverage will help Federal agencies coordinate their environmental and project review efforts to improve the timeliness, efficiency, predictability, and transparency of the decision-making processes associated with covered

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Rules and Regulations

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Wednesday, January 6, 2021

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 760

[Docket ID: FSA–2020–0011]

RIN 0560–AI55

Agricultural Disaster Indemnity Programs

AGENCY: Farm Service Agency (FSA), Department of Agriculture (USDA).

ACTION: Final rule.

SUMMARY: This rule establishes the Quality Loss Adjustment (QLA) Program to provide assistance to producers who suffered eligible crop quality losses due to hurricanes, excessive moisture, floods, drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. It also amends the provisions for the Wildfire and Hurricane Indemnity Program Plus (WHIP+) to be consistent with the Further Consolidated Appropriations Act, 2020, by adding excessive moisture and drought occurring in 2018 and 2019 as qualifying disaster events and clarifying eligibility of sugar beets. The changes to WHIP+ were self-enacting and were previously implemented by FSA.

DATES:

Effective date: January 6, 2021.

Comment due date: Comments are due by March 8, 2021.

ADDRESSES: We invite you to submit comments on this rule. You may submit comments by either of the following methods, although FSA prefers that you submit comments electronically through the Federal eRulemaking Portal:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and search for Docket ID FSA–2020–0011. Follow the instructions for submitting comments.
- *Mail:* Director, SND, FSA, U.S. Department of Agriculture, 1400 Independence Avenue SW, Stop 0522, Washington, DC 20250–0522. In your comment, specify the docket ID FSA–2020–0011.

Comments will be available for viewing online at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Kimberly Graham at (202) 720–6825 (voice); or by email at: *kimberly.graham@usda.gov*. Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice).

SUPPLEMENTARY INFORMATION:

Background

The Additional Supplemental Appropriations for Disaster Relief Act, 2019 (''Disaster Relief Act,'' Pub. L. 116–20) provided disaster assistance for necessary expenses related to losses of crops (including milk, on-farm stored commodities, crops prevented from planting in 2019, and harvested adulterated wine grapes), trees, bushes, and vines, as a consequence of hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. The Further Consolidated Appropriations Act, 2020 (Pub. L. 116–94), makes several changes to the provisions of the Disaster Relief Act, including:

- Specifying that assistance would be provided for crop quality losses;
- Adding excessive moisture as a qualifying disaster event;
- Adding drought as a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year; and
- Providing that sugar beet losses in 2018 and 2019 would be paid through cooperative processors (to be paid to producer members as determined by such processors).

This rule implements those provisions of the Further Consolidated Appropriations Act, 2020, by establishing the QLA Program to provide assistance for crop quality losses and amending the WHIP+ regulations to be consistent with the changes to qualifying disaster events and eligibility of sugar beet losses.

QLA Program

This rule establishes the QLA Program to provide disaster assistance for crop quality losses that were a consequence of hurricanes, excessive moisture, floods, qualifying drought, tornadoes, typhoons, volcanic activity, snowstorms, or wildfires occurring in calendar years 2018 and 2019. Eligible crops generally include crops for which FCIC crop insurance coverage or Noninsured Crop Disaster Assistance Program (NAP) coverage is available; however, value loss crops,[1] honey, and maple sap are not eligible. The QLA Program provides assistance for losses to crops that were sold or fed to livestock or are in storage; crops that were destroyed are not eligible. Assistance will be based on a producer's harvested affected production of an eligible crop that had a quality loss due to a qualifying disaster event and had at least a 5 percent quality loss due to all eligible disaster events.

Qualifying disaster events include hurricanes, floods, tornados, typhoons, volcanic activity, snowstorms, wildfires, excessive moisture, qualifying drought, and related conditions that occurred in the 2018 or 2019 calendar year. Assistance is available for eligible producers in counties that received a qualifying Presidential Emergency Disaster Declaration (declaration) or Secretarial Disaster Designation (designation) due to one or more of the qualifying disaster events or a related condition. As required by the Further Consolidated Appropriations Act, 2020, drought is only a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year (referred to as ''qualifying drought'' in this rule). Only producers in those counties that received a disaster declaration or designation qualify for the QLA Program based on the declaration or designation. Producers in counties that did not receive a qualifying declaration or designation may still apply; however, they must also provide supporting documentation to establish that the crop was directly affected by a qualifying disaster event and suffered the same

[1] Value loss crops include aquaculture, floriculture, mushrooms, ginseng root, ornamental nursery, sea grass and sea oats, Christmas trees, and turfgrass sod.

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minimum loss as required by a crop in a disaster declared or designated county. Lists of counties with Presidential Emergency Disaster Declarations and Secretarial Disaster Designations for all qualifying disaster events for 2018 and 2019 are available at *farmers.gov/quality-loss.*

FSA recognizes that a crop may suffer quality losses due to multiple disaster events in a single crop year, and the portion of a crop's quality loss that can be attributed to a specific disaster event may be difficult to determine. Therefore, while a qualifying disaster event must have caused at least a portion of the affected production's quality loss, FSA will consider the total quality loss caused by all eligible disaster events for eligibility and payment calculation purposes. Eligible disaster events for the QLA Program include those listed for NAP in 7 CFR 1437.10, except that the QLA Program does not cover losses due to insect infestation.

The QLA Program does not cover losses due to disaster events occurring after a crop was harvested or due to crop deterioration while in storage. Quality losses that could have been mitigated using good farming practices are not eligible. For example, if a producer's corn crop received a quality discount due to high moisture content, the producer could have mitigated that quality loss by using best practices for drying and storing the crop; therefore, that producer's quality loss due to high moisture is not eligible. The QLA Program does not provide assistance for losses that cannot be determined to have occurred or for losses for which a notice of loss was previously disapproved by FSA, RMA, or an approved insurance provider selling and servicing Federal crop insurance policies unless that notice of loss was disapproved solely because it was filed after the applicable deadline.

The QLA Program does not provide assistance for certain quality losses that were already compensated under a Federal crop insurance plan, NAP, or WHIP+. This includes losses to affected production of:

- Multiple market crops already compensated under crop insurance or WHIP+;
- Crops for which production used to calculate a crop insurance indemnity or WHIP+ payment was adjusted based on a comparison of the producer's sale price to the FCIC established price;
- Crops that received a crop insurance indemnity, NAP payment, or WHIP+ payment based on the quantity of production that was considered unmarketable; and
- Crops for which production was reported as salvage value or secondary use.

The QLA Program also excludes quality losses to sugar beets that were compensated through cooperative agreements with cooperative processors.

Affected production of a subsequent crop grown on double cropped acreage is only eligible if the crop has been approved as an eligible double cropping practice by the FSA State committee.

Application

FSA will accept QLA Program applications from January 6, 2021, through March 5, 2021. To apply, producers must submit a completed QLA Program application either in person, by mail, email, or facsimile to an FSA county office. To be eligible, a producer must submit a complete application, which includes all of the following:

- FSA–898, Quality Loss Adjustment (QLA) Program Application;
- FSA–899, Historical Nutritional Value Weighted Average Worksheet (only for forage crops with verifiable documentation of historical nutrient factors from the 3 preceding crop years);
- FSA–578, Report of Acreage;
- FSA–895, Crop Insurance and/or NAP Coverage Agreement; and
- Required documentation, as discussed below.

The FSA–578, FSA–895, and FSA–899 forms, and other required documentation must be submitted to the producer's county office by March 19, 2021.

If not already on file with FSA, producers must also submit the following eligibility forms for each crop year within 60 days of the date the producer signs the application:

- AD–1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification;
- CCC–902, Farm Operating Plan for Payment Eligibility;
- CCC–941 Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information; and
- CCC–942 Certification of Income from Farming, Ranching and Forestry Operations, if applicable.

Payments will not be made until all necessary eligibility documentation is received. Failure of an applicant to submit documentation timely may result in FSA not issuing a payment or, in the case of legal entities, a reduced payment if the required documentation for one or more members of the entity is not submitted timely.

Required Documentation

To support their applications, producers must submit documentation showing the quality loss and quantity of affected production by March 19, 2021. Documentation of the quality loss (total dollar value loss, grading factors, and nutrient factors, as applicable), must be verifiable. Verifiable documentation is documentation that can be verified by FSA through an independent source; FSA may verify the submitted records with records on file at the warehouse, gin, laboratory, or other entity that received or tested the reported production. Examples of acceptable, verifiable documentation include warehouse grading sheets, settlement sheets, sales receipts, and laboratory test results. Except for grain crops that have been sold, the documentation must be from laboratory tests or analysis completed within 30 days of harvest to be considered acceptable, unless the FSA county committee determines that the record is representative of the condition of the affected production within 30 days of harvest. For grain crops that were sold, the verifiable documentation can be from any time from harvest through the time of sale, unless the FSA county committee determines the record is not representative of the condition within 30 days of harvest. Producers who do not have acceptable, verifiable documentation are ineligible for the QLA Program.

For forage crops, all producers must submit verifiable documentation showing the nutrient factors for the affected production of the crop. Producers must also submit verifiable documentation of the historical nutrient factors for the 3 preceding crop years if available. The type of nutrient factors (such as relative feed value or total digestible nutrients) that must be documented for a particular crop will be determined by the FSA county committee based on the standard practice for the crop in that county. For all crops other than forage crops, producers must submit verifiable documentation of the total dollar value loss due to quality, if available, and verifiable documentation of grading factors due to quality.

Documentation to support the quantity of affected production included on the application must be verifiable for non-forage crops that receive a QLA payment based on the producer's total dollar value loss. For all other crops (non-forage crops without a producer's total dollar value loss and all forage crops), records to support the quantity of affected production must be reliable. Reliable production records means evidence provided by the participant that is used to substantiate the amount of production reported when verifiable

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records are not available, including copies of receipts, ledgers of income, income statements of deposit slips, register tapes, invoices for custom harvesting, and records to verify production costs, contemporaneous measurements, truck scale tickets, and contemporaneous diaries that are determined acceptable by the FSA county committee. To determine whether the records are acceptable, the FSA county committee will consider whether they are consistent with the records of other producers of the crop in that area.

Payment Calculation

QLA Program payments will be calculated using different formulas based on the type of crop (forage or non-forage) and based on the type of documentation submitted. All QLA payments, regardless of whether they are forage or non-forage, and the type of documentation submitted, will be calculated using a 70 percent payment factor. Payments calculated based on a county average loss, as described below, will be subject to an additional payment factor of 50 percent.

For forage crops with verifiable documentation of both the nutrient factors for the affected production and historical nutrient factors for the 3 preceding crop years, payment will be equal to the amount of the producer's total affected production multiplied by the producer's verifiable percentage of loss, multiplied by the average market price determined by FSA, multiplied by 70 percent. The producer's verifiable percentage of loss is determined by comparing the nutrient factor test results for the affected production to the average from the 3 preceding crop years, as documented on the FSA–899, Historical Nutritional Value Weighted Average Worksheet. The average market price for the QLA Program is the price used for NAP established according to 7 CFR 1437.12.

For forage crops with verifiable documentation of nutrient factors for the affected production but without historical nutrient factors for the 3 preceding crop years, the payment will be equal to the amount of the producer's total affected production multiplied by the county average percentage of loss, multiplied by the average market price determined by FSA, multiplied by 70 percent, multiplied by 50 percent.

For affected production of non-forage crops with verifiable documentation of the total dollar value loss due to quality, the QLA Program payment is equal to the producer's total dollar value loss on the affected production of the crop, multiplied by a payment factor of 70 percent.

For non-forage crops without verifiable documentation of a total dollar value loss but with verifiable documentation of grading factors due to quality, the payment will be equal to the amount of producer's affected production multiplied by the county average loss per unit of measure, multiplied by 70 percent, multiplied by 50 percent.

To determine the county average percentage of loss (for forage crops) or the county average loss per unit of measure (for non-forage crops), FSA will calculate the average loss for a crop based on losses of producers applying with verifiable documentation of historical nutritional factors (for forage crops) or the total dollar value loss (for non-forage crops) if at least 5 eligible producers submitted that documentation in the county. If less than 5 eligible producers in a county submit verifiable documentation of their historical nutritional factors or their total dollar value loss, FSA will determine a county average percentage of loss or county average loss per unit of measure based on the best available data, including losses of other QLA Program participants in contiguous counties. If sufficient data is still not available after considering other sources, FSA may determine that a county average cannot be calculated and producers in that county applying for payment under the applicable calculation are ineligible.

Payments for the QLA Program will not be issued until the application period has ended in order to allow FSA to determine the county average losses, as well as the total payments requested under the QLA Program. The Further Consolidated Appropriations Act, 2020 provides funding for the QLA Program to be available until December 31, 2021, in an amount equal to the remaining funds provided under the Bipartisan Budget Act of 2018 (Pub. L. 115–123) for losses due to Hurricanes Harvey, Irma, Maria, and other hurricanes and wildfires occurring in calendar year 2017,[2] and remaining funds provided under the Disaster Relief Act for losses due to Hurricanes Michael and Florence, other hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.[3] If the total amount of calculated QLA Program payments exceeds the amount of funding available, FSA will prorate all payments by a national factor.

A person or legal entity, other than a joint venture or general partnership, is eligible to receive, directly or indirectly, up to $125,000 per crop year in QLA Program payments. FSA will use the notification of interest provisions in 7 CFR 1400.107 and payment attribution provisions in 7 CFR 1400.105 for attributing and limiting payments to persons and legal entities. FSA will also use provisions in 7 CFR 1400.104 when changes in a farming operation result in an increase in persons to which payment limitation applies. Payments made to a joint operation (including a general partnership or joint venture) cannot exceed $250,000 per person or legal entity that comprise the ownership of the joint operation. Payments made to a legal entity will be reduced proportionately by an amount that represents the direct or indirect ownership in the legal entity by any person or legal entity that has otherwise reached the maximum payment limitation. These rules for attributing and limiting payments are consistent with the programs FSA administers on behalf of the Commodity Credit Corporation.

A person or legal entity, other than a joint venture or general partnership, is ineligible for a 2018, 2019, or 2020 payment if the person's or legal entity's average adjusted gross income (AGI) is more than $900,000, unless at least 75 percent of that person's or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. The average AGI for each of the program years 2018, 2019, or 2020, is determined using the average of the adjusted gross incomes for the 3 taxable years preceding the most immediately preceding taxable year. For example, for the 2019 program year, the producer's AGI would be based on the 2015, 2016, and 2017 tax years. If at least 75 percent of the person's or legal entity's AGI is derived from farming, ranching, or forestry-related activities and the participant provides the required certification and documentation, the person or legal entity is eligible to

[2] FSA provided assistance for losses due to Hurricanes Harvey, Irma, Maria, and other hurricanes and wildfires occurring in calendar year 2017 through the 2017 Wildfires and Hurricanes Indemnity Program (2017 WHIP) (final rule published July 18, 2018, 83 FR 33795–33809) and the Florida Citrus Recovery Grant Program.

[3] FSA has previously provided assistance for losses due to Hurricanes Michael and Florence, other hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019 through the Wildfires and Hurricanes Indemnity Program Plus (WHIP+), On-Farm Storage Loss Program, and Milk Loss Program (final rule published September 13, 2019, 84 FR 48518–48537), as well as through several grants and cooperative agreements with sugar beet cooperatives.

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receive QLA Program payments up to the applicable payment limitation noted above. With respect to joint ventures and general partnerships, this AGI provision will be applied to each member of the joint venture and general partnership.

Requirement to Purchase Crop Insurance or NAP Coverage

The Disaster Relief Act requires all participants who receive QLA Program payments to purchase crop insurance or NAP coverage for the next 2 available crop years. The latest year for meeting compliance with this provision will be the 2023 crop year. In other words, if the 2 consecutive years of coverage are not met by 2023 coverage year, the participant is ineligible for and must refund QLP Program payments. Participants must obtain crop insurance or NAP, as may be applicable, at the 60 percent coverage level or higher. In situations where crop insurance is unavailable for a crop, the Disaster Relief Act requires that a QLA Program participant obtain NAP coverage. Section 1001D of the Food Security Act of 1985 (1985 Farm Bill) provides that a person or entity with AGI in amount greater than $900,000 is not eligible to participate in NAP; however, producers with an AGI greater than $900,000 may be eligible for the QLA Program if at least 75 percent of that person's or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. Accordingly, in order to reconcile this restriction in the 1985 Farm Bill and the Disaster Relief Act's requirement to obtain NAP or crop insurance coverage, QLA Program participants may meet the Disaster Relief Act's purchase requirement by purchasing Whole-Farm Revenue Protection crop insurance coverage, if eligible, or they may pay the applicable NAP service fee and premium for the 60 percent coverage level despite their ineligibility for a NAP payment. In other words, the service fee and premium must be paid even though no NAP payment may be made because the AGI of the person or entity exceeds the 1985 Farm Bill limitation.

The crop insurance and NAP coverage requirements are specific to the crop and county (county where the crop is physically located for insurance and administrative county for NAP) for which QLA Program payments are paid. This means that a producer is required to purchase crop insurance or NAP coverage for the crop in the county for which the producer was issued a QLA Program payment. Producers who receive a payment on a crop in a county and who have the crop or crop acreage in subsequent years, as provided in this rule, and who fail to obtain the 2 years of crop insurance or NAP coverage must refund all QLA Program payments for that crop in that county with interest from the date of disbursement. This is a condition of payment eligibility specified by Disaster Relief Act and is therefore not subject to partial payment eligibility or other types of equitable relief. Producers who were paid under the QLA Program for a crop in a county but do not plant that crop in a subsequent year are not subject to the crop insurance or NAP purchase requirement. WHIP+ participants who already met the requirement to purchase crop insurance or NAP coverage as specified in 7 CFR 760.1517 are considered to have also met the requirement to purchase crop insurance or NAP coverage for QLA Program purposes, and they are not required to obtain additional years of crop insurance or NAP coverage as a result of also receiving a QLA Program payment for that crop.

Applicable general eligibility requirements, including recordkeeping requirements and required compliance with HELC and Wetland Conservation provisions, are similar to those for the previous ad hoc crop disaster programs and current permanent disaster programs. All information provided to FSA for program eligibility and payment calculation purposes, including production records, is subject to spot check.

WHIP+

FSA, on behalf of the Secretary of Agriculture, previously implemented provisions of the Disaster Relief Act by establishing WHIP+ through a final rule published on September 19, 2019 (84 FR 48518–48537). The Disaster Relief Act provided assistance for losses of crops, trees, bushes, and vines, as a consequence of hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. WHIP+ covers only production losses of crops except in specific circumstances discussed previously in this document when the producer may have also been compensated for quality losses.

This rule amends 7 CFR 760.1500(c) and the definition of ''qualifying disaster event'' in § 760.1502 to include excessive moisture and qualifying drought. As under the QLA Program, drought is only considered a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year. This rule adds definitions of ''qualifying drought'' and ''U.S. Drought Monitor'' in § 760.1502.

The addition of these qualifying disaster events for WHIP+ was self-enacting as the text in the law clearly specified the required changes without need for interpretation; therefore, FSA began the sign-up period for losses due to excessive moisture and qualifying drought on March 23, 2020, and sign-up ended on October 30, 2020. Producers applying for WHIP+ assistance for losses due to excessive moisture or qualifying drought were required to meet all requirements in 7 CFR part 760, subpart O, including the requirement to purchase crop insurance for 2 years as specified in § 760.1517.

The Further Consolidated Appropriations Act, 2020 also directed the Secretary to pay sugar beet losses in 2018 and 2019 through cooperative processors. FSA has established cooperative agreements with sugar beet processors; those processors will be responsible for distributing assistance to their members. This rule amends the eligibility provisions in § 760.1517 to specify that members of cooperatives are not eligible for a WHIP+ payment for sugar beet losses.

FSA is also updating § 760.1510(a) to reflect the application deadline of October 30, 2020, and correcting references in §§ 760.1508(c) and (f) and 760.1511(a)(6).

Notice and Comment and Effective Date

The Administrative Procedure Act (5 U.S.C. 553) provides that the notice and comment and 30-day delay in the effective date provisions do not apply when the rule involves a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts. This rule involves programs for payments to certain agricultural commodity producers and therefore falls within that exemption. Due to the nature of the rule and the need to implement the regulations expeditiously to provide assistance to agricultural producers, FSA finds that notice and public procedure are contrary to the public interest. Therefore, even though this rule is a major rule for purposes of the Congressional Review Act, FSA is not required to delay the effective date for 60 days from the date of publication to allow for Congressional review. Therefore, this rule is effective upon publication in the **Federal Register**.

Executive Orders 12866, 13563, 13771 and 13777

Executive Order 12866, ''Regulatory Planning and Review,'' and Executive

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Order 13563, ''Improving Regulation and Regulatory Review,'' direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13777, ''Enforcing the Regulatory Reform Agenda,'' established a Federal policy to alleviate unnecessary regulatory burdens on the American people.

The Office of Management and Budget (OMB) designated this rule as economically significant under Executive Order 12866, and therefore, OMB has reviewed this rule. The costs and benefits of this rule are summarized below. The full cost benefit analysis is available on *regulations.gov.*

Executive Order 13771, titled Reducing Regulation and Controlling Regulatory Costs, was issued on January 30, 2017. The OMB guidance in M–17–21, dated April 5, 2017, specifies that ''transfers'' are not covered by Executive Order 13771 but that requirements imposed apart from transfers in transfer rules may qualify as costs or cost savings under Executive Order 13771, for example the information collection requirements in this rule. This rule is not subject to the requirements of E.O. 13771 because this rule results in no more than de minimis costs.

Cost Benefit Analysis Summary

WHIP+ initially provided approximately $3 billion in supplemental assistance to producers for qualifying agricultural production losses. In the Further Consolidated Appropriations Act, 2020, Congress changed provisions of the Disaster Relief Act as follows:

1. Extended eligibility under WHIP+ to also cover [4]—

a. Crop production losses due to excessive moisture in calendar years 2018 and 2019;

b. Crop production losses due to drought in calendar years 2018 and 2019 if the area within the county in which the loss occurred was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year;

2. Provided assistance for sugar beet losses in 2018 and 2019 to be paid through cooperative processors; [5] and

3. Authorized assistance for crop quality losses that occurred in calendar years 2018 and 2019 through the QLA Program (implemented by this rule).

Eligible crops under the QLA Program include crops for which Federal crop insurance or NAP coverage is available. To be eligible for the QLA Program, a crop must have suffered a quality loss due to a qualifying disaster event and had at least a 5 percent quality discount due to a combination of the qualifying disaster event and any other QLA-eligible causes of loss. Eligible crops may have been sold, fed on farm to livestock, or been in storage at the time of application.

USDA estimates the Further Consolidated Appropriations Act, 2020 will provide approximately $950 million for the continuation of disaster assistance program delivery, including payments to eligible producers for production losses due to excessive moisture and extreme drought under WHIP+ and for quality losses covered by the QLA Program. Of that amount, USDA anticipates that an estimated $500 million will be available for QLA Program payments. However, the amount of funding ultimately available for the QLA Program will not be known until other payments, for example for excessive moisture and drought under WHIP+, are finalized.

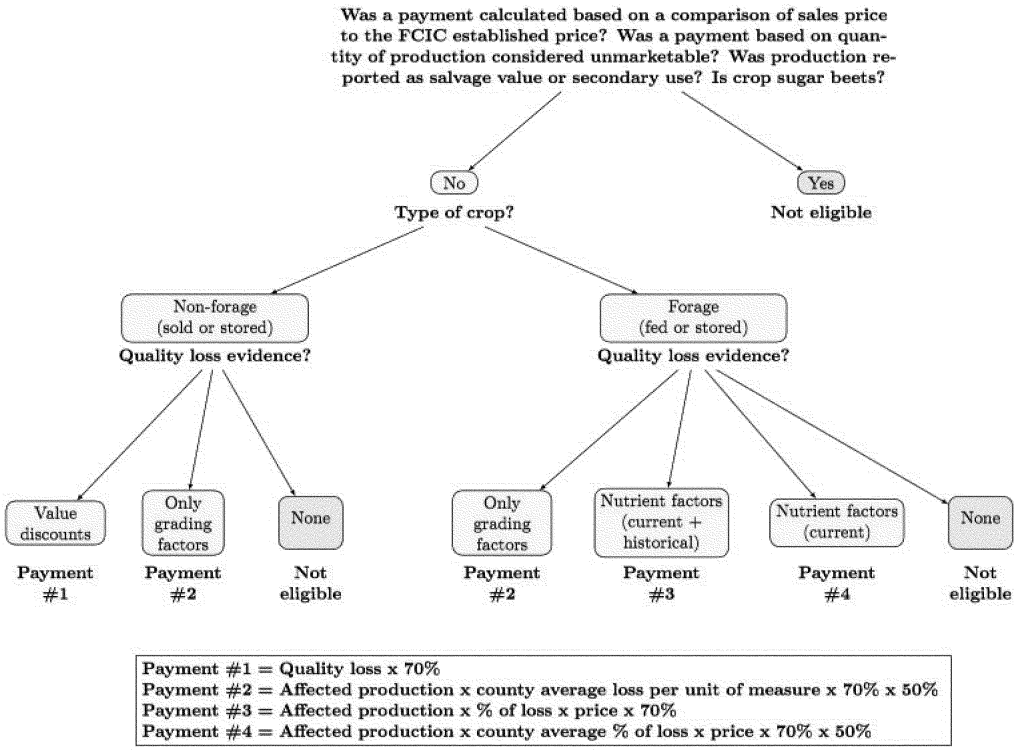
The QLA Program payment calculation depends on several factors, as shown in Figure 1. A producer is ineligible for a QLA Program payment if they received a crop insurance indemnity, NAP payment, or WHIP+ payment for a crop that was unmarketable, sold for salvage value or secondary use, or if the payment was based on a comparison of the sales price of the affected production and the applicable reference price. Otherwise, payments or benefits received under the Federal crop insurance, NAP or WHIP+ do not affect a producer's eligibility or payment received from the QLA Program. The payment calculation depends on the use of production (non-forage or forage) and evidence at hand of the crop quality loss. Producers who do not have evidence of the quality loss are ineligible.

[4] The addition of excessive moisture and certain drought conditions as qualifying causes of loss under WHIP+ is specific, not open to interpretation, and is therefore self-enacting. Accordingly, the provision was previously implemented. FSA began the sign-up period on March 23, 2020, and sign-up ended on October 30, 2020.

[5] Assistance for sugar beet losses for members of cooperative processors is provided through a separate program.

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Figure 1. Eligibility and Payment Calculation



Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA, Pub. L. 104–121), generally requires an agency to prepare a regulatory flexibility analysis of any rule whenever an agency is required by the Administrative Procedure Act or any other law to publish a proposed rule, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule is not subject to the Regulatory Flexibility Act because USDA is not required by Administrative Procedure Act or any law to publish a proposed rule for this rulemaking.

Environmental Review

The environmental impacts of this final rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and the FSA regulation for compliance with NEPA (7 CFR part 799). The legislative intent for implementing the QLA Program is to provide assistance to producers who suffered eligible crop quality losses due to hurricanes, excessive moisture, floods, drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.

While OMB has designated this rule as ''economically significant'' under Executive Order 12866, ''economic or social effects are not intended by themselves to require preparation of an environmental impact statement'' (see 40 CFR 1502.16(b)), when not interrelated to natural or physical environmental effects.

For this rule, the FSA Categorical Exclusions found in 7 CFR 799.31 apply, specifically 7 CFR 799.31(b)(6)(iii), (iv), and (vi) (that is, § 799.31(b)(6)(iii) Financial assistance to supplement income, manage the supply of agricultural commodities, or influence the cost or supply of such commodities or programs of a similar nature or intent (that is, price support programs); § 799.31(b)(6)(iv) Individual farm participation in FSA programs where no ground disturbance or change in land use occurs as a result of the proposed action or participation; and § 799.31(b)(6)(vi) Safety net programs administered by FSA). No Extraordinary Circumstances (7 CFR 799.33) exist.

For the outlined reasons, FSA has determined that the implementation of the QLA Program and the participation in the QLA Program does not constitute a major Federal action that would significantly affect the quality of the human environment, individually or cumulatively. Therefore, FSA will not prepare an environmental assessment or environmental impact statement for this regulatory action.

Executive Order 12372

Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' requires consultation with State and local officials that would be directly affect by proposed Federal financial assistance. The objectives of the Executive order are to foster an intergovernmental partnership and a strengthened federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance and direct Federal development. For reasons specified in the final rule related notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs and activities

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within this rule are excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, ''Civil Justice Reform.'' This rule will not preempt State or local laws, regulations, or policies unless they represent an irreconcilable conflict with this rule. The rule will not have retroactive effect. Before any judicial action may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR parts 11 and 780 must be exhausted.

Executive Order 13132

This rule has been reviewed under Executive Order 13132, ''Federalism.'' The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, except as required by law. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

The USDA's Office of Tribal Relations (OTR) has assessed the impact of this rule on Indian Tribes and determined that this rule may have significant Tribal implications that require ongoing adherence to Executive Order 13175. OTR notes that the programs are similar to programs that have been administered by FSA and RMA in the past; having not heard any concerns regarding the administration of these in the past, and the fact that provisions are mandated in the Disaster Relief Act, OTR recommended that consultation is not required at this time. Tribes can request consultation at any time. FSA will work with OTR to ensure meaningful consultation is provided where changes, additions, and modifications identified in this rule are not expressly mandated by law.

The Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104–4) requires Federal agencies to assess the effects of their regulatory actions on State local, and Tribal governments or the private sector. Agencies generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures of $100 million or more in any 1 year for State, local, or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates, as defined in Title II of UMRA, for State, local, and Tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, FSA submitted the QLA Program information collection request to OMB for emergency approval. OMB approved the 6-month emergency information collection.

E-Government Act Compliance

FSA is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Federal Assistance Programs

The titles and numbers of the Federal Domestic Assistance Program found in the Catalog of Federal Domestic Assistance to which this rule applies are:

10.129—Wildfire and Hurricanes Indemnity Program Plus
10.133—Quality Loss Adjustment Program

List of Subjects in 7 CFR Part 760

Dairy products, Indemnity payments, Reporting and recordkeeping requirements.

For the reasons discussed above, FSA amends 7 CFR part 760 as follows:

PART 760—INDEMNITY PAYMENT PROGRAMS

■ 1. Revise the authority citation for part 760 to read as follows:

Authority: 7 U.S.C. 4501 and 1531; 16 U.S.C. 3801, note; 19 U.S.C. 2497; Title III, Pub. L. 109–234, 120 Stat. 474; Title IX, Pub. L. 110–28, 121 Stat. 211; Sec. 748, Pub. L. 111–80, 123 Stat. 2131; Title I, Pub. L. 115–123, 132 Stat. 65; Title I, Pub. L. 116–20, 133 Stat. 871; and Division B, Title VII, Pub. L. 116–94, 133 Stat. 2658.

Subpart O—Agricultural Disaster Indemnity Programs

§ 760.1500 [Amended]

■ 2. In § 760.1500(c), remove the words ''and wildfires'' and add ''wildfires, excessive moisture, and qualifying drought'' in their place.

■ 3. Amend § 760.1502 as follows:

■ a. In the definition of ''Qualifying disaster event'', in paragraph (2) of remove the word ''wildfire'' and add ''wildfire, excessive moisture, qualifying drought'' in its place; and

■ b. Add the definitions of ''Qualifying drought'' and ''U.S. Drought Monitor'' in alphabetical order.

The additions read as follows:

§ 760.1502 Definitions.

* * * * *

Qualifying drought means an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year.

* * * * *

U.S. Drought Monitor is a system for classifying drought severity according to a range of abnormally dry to exceptional drought. It is a collaborative effort between Federal and academic partners, produced on a weekly basis, to synthesize multiple indices, outlooks, and drought impacts on a map and in narrative form. This synthesis of indices is reported by the National Drought Mitigation Center at *http://droughtmonitor.unl.edu.*

* * * * *

■ 4. In § 760.1503, add paragraph (j) to read as follows.

§ 760.1503 Eligibility.

* * * * *

(j) Members of cooperative processors are not eligible for WHIP+ assistance for sugar beet losses.

§ 760.1508 [Amended]

■ 5. Amend § 760.1508 as follows:

■ a. In paragraph (c), remove the cross reference ''paragraph (b)(1)'' and add the cross reference ''paragraph (b)'' in its place; and

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■ b. In paragraph (f), remove the cross reference ''paragraph (b)(1)'' and add cross reference ''paragraph (e)'' in its place.

§ 760.1510 [Amended]

■ 6. In § 760.1510(a), remove the words ''a date that will be announced by the Deputy Administrator'' and add ''October 30, 2020'' in their place.

§ 760.1511 [Amended]

■ 7. In § 760.1511(a)(6), remove the cross reference ''paragraph (f)'' and add cross reference ''paragraph (g)'' in its place.

■ 8. Add subpart R, consisting of §§ 760.1800 through 760.1814, to read as follows:

Subpart R—Quality Loss Adjustment Program

Sec.

760.1800 Applicability.
760.1801 Administration.
760.1802 Definitions.
760.1803 Participant eligibility.
760.1804 Eligibility of affected production.
760.1805 Qualifying disaster events.
760.1806 Ineligible losses.
760.1807 Miscellaneous provisions.
760.1808 General provisions.
760.1809 Payment and adjusted gross income limitation.
760.1810 Time and method of application.
760.1811 Required documentation and verification.
760.1812 Payment calculation.
760.1813 Availability of funds and timing of payments.
760.1814 Requirement to purchase crop insurance or NAP coverage.

§ 760.1800 Applicability.

This subpart specifies the terms and conditions for the Quality Loss Adjustment (QLA) Program. The QLA Program provides disaster assistance for crop quality losses that were a consequence of hurricanes, excessive moisture, floods, qualifying drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.

§ 760.1801 Administration.

(a) The QLA Program is administered under the general supervision of the Administrator, Farm Service Agency (FSA), and the Deputy Administrator for Farm Programs, FSA. The QLA Program is carried out by FSA State and county committees with instructions issued by the Deputy Administrator.

(b) FSA State and county committees, and representatives and their employees, do not have authority to modify or waive any of the provisions of the regulations in this subpart or instructions issued by the Deputy Administrator.

(c) The FSA State committee will take any action required by the regulations in this subpart that the FSA county committee has not taken. The FSA State committee will also:

(1) Correct, or require an FSA county committee to correct, any action taken by the FSA county committee that is not in accordance with the regulations in this subpart; or

(2) Require an FSA county committee to withhold taking any action that is not in accordance with this subpart.

(d) No delegation to an FSA State or county committee precludes the FSA Administrator or the Deputy Administrator from determining any question arising under this subpart or from reversing or modifying any determination made by an FSA State or county committee.

(e) The Deputy Administrator has the authority to:

(1) Permit State and county committees to waive or modify a non-statutory deadline specified in this subpart; and

(2) Delegate authority to FSA State or county committees to make determinations under § 760.1812(f) and (g).

(f) Items of general applicability to program participants, including, but not limited to, application periods, application deadlines, internal operating guidelines issued to FSA State and county offices, prices, and payment factors established under this subpart, are not subject to appeal in accordance with part 780 of this chapter.

§ 760.1802 Definitions.

The following definitions apply to this subpart. The definitions in §§ 718.2 and 1400.3 of this title also apply, except where they conflict with the definitions in this section. In the event of conflict, the definitions in this section apply.

Affected production means the producer's ownership share of harvested production of an eligible crop, adjusted to standard moisture as established by the U.S. Grains Standards Act, a State regulatory agency, or industry standard, that had both:

(1) A quality loss due to a qualifying disaster event; and

(2) At least a 5 percent quality loss due to all eligible disaster events.

Average market price means the average market price determined according to § 1437.12 of this title.

Coverage level means the percentage determined by multiplying the elected yield percentage under a crop insurance policy or NAP coverage by the elected price percentage.

Crop insurance means an insurance policy reinsured by FCIC under the provisions of the Federal Crop Insurance Act, as amended. It does not include private plans of insurance.

Crop insurance indemnity means, for the purpose of this subpart, the payment to a participant for crop losses covered under crop insurance administered by RMA in accordance with the Federal Crop Insurance Act (7 U.S.C. 1501–1524).

Crop year means:

(1) For insurable crops, the crop year as defined according to the applicable crop insurance policy; and

(2) For NAP-eligible crops, the crop year as defined in § 1437.3 of this title.

Eligible crop means a crop for which coverage was available either from FCIC under part 400 of this title, or through NAP under § 1437.4 of this title.

Eligible disaster event means a disaster event that is an eligible cause of loss specified in § 1437.10 of this title, excluding insect infestation.

FCIC means the Federal Crop Insurance Corporation, a wholly owned Government Corporation of USDA, administered by RMA.

FSA means the Farm Service Agency, an agency of USDA.

Grading factor means a factor that describes the physical condition or a feature that is evaluated to determine the quality of the production, such as broken kernels and low-test weight.

Good farming practices means the cultural practices generally recognized as compatible with agronomic and weather conditions and used for the crop to make normal progress toward maturity, as determined by FSA. These practices are:

(1) For conventional farming practices, those generally recognized by agricultural experts for the area, which could include one or more counties; or

(2) For organic farming practices, those generally recognized by the organic agricultural experts for the area or contained in the organic system plan that is in accordance with the National Organic Program specified in part 205 of this title.

Harvested means:

(1) For insurable crops, harvested as defined according to the applicable crop insurance policy;

(2) For NAP-eligible single harvest crops, that a crop has been removed from the field, either by hand or mechanically;

(3) For NAP-eligible crops with potential multiple harvests in 1 year or harvested over multiple years, that the producer has, by hand or mechanically, removed at least 1 mature crop from the field during the crop year; and

(4) For mechanically harvested NAP-eligible crops, that the crop has been

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removed from the field and placed in a truck or other conveyance, except hay is considered harvested when in the bale, whether removed from the field or not.

Insurable crop means an agricultural crop (excluding livestock) for which the producer on a farm is eligible to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501–1524).

Multiple market crop means a crop that is delivered to a single market but can have fresh and processed prices based on grading. For example, a producer may intend to sell all production of an apple crop as fresh production; however, based on grading of the crop at the market, the producer is compensated for some production at the fresh price and for some production at the processing price.

Multiple planting means the planting for harvest of the same crop in more than one planting period in a crop year on different acreage.

NAP means the Noninsured Crop Disaster Assistance Program under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) and part 1437 of this title.

NAP-eligible crop means an agricultural crop for which the producer on a farm is eligible to obtain NAP coverage.

NAP service fee means the amount specified in § 1437.7 of this title that the producer must pay to obtain NAP coverage.

Nutrient factor means a factor determined by a test that measures the nutrient value of a crop to be fed to livestock. Examples include, but are not limited to, relative feed value and total digestible nutrients.

Production means quantity of the crop produced, which is expressed in a specific unit of measure including, but not limited to, bushels or pounds.

QLA Program means the Quality Loss Adjustment Program.

Qualifying disaster event means a hurricane, flood, tornado, typhoon, volcanic activity, snowstorm, wildfire, excessive moisture, qualifying drought, or a related condition that occurred in the 2018 or 2019 calendar year.

Qualifying drought means an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year.

Quality loss means:

(1) For forage crops, a reduction in an applicable nutrient factor for the crop; and

(2) For crops other than forage, a reduction in the total dollar value of the crop due to reduction in the physical condition of the crop indicated by an applicable grading factor.

Related condition means damaging weather or an adverse natural occurrence that occurred as a direct result of a specified qualifying disaster event, such as excessive rain, high winds, flooding, mudslides, and heavy smoke, as determined by the Deputy Administrator. The term does not include insect infestation.

Reliable production record means evidence provided by the participant that is used to substantiate the amount of production reported when verifiable records are not available, including copies of receipts, ledgers of income, income statements of deposit slips, register tapes, invoices for custom harvesting, and records to verify production costs, contemporaneous measurements, truck scale tickets, and contemporaneous diaries that are determined acceptable by the FSA county committee. To determine whether the records are acceptable, the FSA county committee will consider whether they are consistent with the records of other producers of the crop in that area.

RMA means the Risk Management Agency, an agency of USDA.

Salvage value means the dollar amount or equivalent for the quantity of the commodity that cannot be marketed or sold in any recognized market for the crop.

Secondary use means the harvesting of a crop for a use other than the intended use.

Unit of measure means:

(1) For insurable crops, the FCIC-established unit of measure; and

(2) For NAP-eligible crops, the established unit of measure used for the NAP price and yield.

USDA means the U.S. Department of Agriculture.

U.S. Drought Monitor is a system for classifying drought severity according to a range of abnormally dry to exceptional drought. It is a collaborative effort between Federal and academic partners, produced on a weekly basis, to synthesize multiple indices, outlooks, and drought impacts on a map and in narrative form. This synthesis of indices is reported by the National Drought Mitigation Center at *http://droughtmonitor.unl.edu.*

Value loss crop has the meaning specified in subpart D of part 1437 of this title.

Verifiable documentation means evidence that can be verified by FSA through an independent source.

Verifiable percentage of loss is the percentage of loss determined by comparing the applicable nutrient factors for a producer's affected production of a forage crop with the average of such nutrient factors from the 3 preceding crop years, as documented on FSA–899, Historical Nutritional Value Weighted Average Worksheet.

WHIP+ means the Wildfires and Hurricanes Indemnity Program Plus under subpart O of this part.

§ 760.1803 Participant eligibility.

(a) Participants will be eligible to receive a payment under this subpart only if they incurred a loss to an eligible crop due to a qualifying disaster event, as further specified in this subpart.

(b) To be an eligible participant under this subpart, a person or legal entity must be a:

(1) Citizen of the United States;

(2) Resident alien; for purposes of this subpart, resident alien means ''lawful alien'' (see § 1400.3 of this title);

(3) Partnership consisting solely of citizens of the United States or resident aliens; or

(4) Corporation, limited liability company, or other similar organizational structure organized under State law consisting solely of citizens or resident aliens of the United States.

(c) If any person who would otherwise be eligible to receive a payment dies before the payment is received, payment may be released as specified in § 707.3 of this chapter. Similarly, if any person or legal entity who would otherwise have been eligible to apply for a payment dies or is dissolved, respectively, before the payment is applied for, payment may be released in accordance with this subpart if a timely application is filed by an authorized representative. Proof of authority to sign for the deceased producer or dissolved entity must be provided. If a participant is now a dissolved general partnership or joint venture, all members of the general partnership or joint venture at the time of dissolution or their duly authorized representatives must sign the application. Eligibility of such participant will be determined, as it is for other participants, based upon ownership share and risk in producing the crop.

(d) An ownership share is required to be eligible for a payment under this subpart. Growers growing eligible crops under contract for crop owners are not eligible for a payment under this subpart unless the grower is also determined to have an ownership share of the crop. Any verbal or written contract that precludes the grower from having an ownership share renders the

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grower ineligible for payments under this subpart.

(e) A person or legal entity is not eligible to receive assistance under this subpart if FSA determines that the person or legal entity:

(1) Adopted any scheme or other device that tends to defeat the purpose of this subpart or any of the regulations applicable to this subpart;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination under any or all of the following: This subpart and parts 12, 400, 1400, and 1437 of this title.

(f) A person who is ineligible for crop insurance or NAP under § 400.458 or § 1437.16 of this title, respectively, for any year is ineligible for payments under this subpart for the same year.

(g) The provisions of § 718.11 of this chapter, providing for ineligibility for payments for offenses involving controlled substances, apply.

(h) As a condition of eligibility to receive payments under this subpart, the participant must have been in compliance with the Highly Erodible Land Conservation and Wetland Conservation provisions of part 12 of this title for the applicable crop year for which the producer is applying for benefits under this subpart, and must not otherwise be precluded from receiving payments under part 12, 400, 1400, or 1437 of this title or any law.

§ 760.1804 Eligibility of affected production.

(a) To be eligible for the QLA Program, an eligible crop's affected production must have suffered a quality loss due to a qualifying disaster event and had at least a 5 percent quality loss due to all eligible disaster events. Whether affected production of a crop had a 5 percent loss will be determined separately for crops with different crop types, intended uses, certified organic or conventional status, county, and crop year.

(b) Affected production of the following is not eligible for the QLA Program:

(1) Crops that were not grown commercially;

(2) Crops that were intended for grazing or were grazed;

(3) Crops not intended for harvest;

(4) Volunteer crops;

(5) Value loss crops;

(6) Maple sap;

(7) Honey;

(8) By-products resulting from processing or harvesting a crop, such as, but not limited to, cotton seed, peanut shells, wheat or oat straw, or corn stalks or stovers;

(9) First-year seeding for forage production;

(10) Immature fruit crops;

(11) Crops for which FCIC coverage or NAP coverage is unavailable;

(12) Multiple market crops for which the producer previously received a crop insurance indemnity or WHIP+ payment for a quality loss;

(13) Crops for which production used to calculate a crop insurance indemnity or WHIP+ payment was adjusted based on a comparison of the producer's sale price to FCIC established price;

(14) Crops that received a crop insurance indemnity, NAP payment, or WHIP+ payment based on the quantity of production that was considered unmarketable;

(15) Crops for which the producer previously received a crop insurance indemnity, NAP payment, or WHIP+ payment for which production was reported as salvage value or secondary use;

(16) Sugar beets for which a member of a cooperative processor received a payment through a cooperative agreement; and

(17) Crops that were destroyed.

(c) Only affected production from initial crop acreage will be eligible for a QLA Program payment, unless the provisions for subsequent crops in this section are met. All plantings of an annual or biennial crop are considered the same as a planting of an initial crop in tropical regions as defined in part 1437, subpart F, of this title.

(d) In cases where there is double cropped acreage, affected production of each crop may be eligible only if the specific crops are approved by the FSA State committee as eligible double cropping practices in accordance with procedures approved by the Deputy Administrator.

(e) Participants having affected production from multiple plantings may receive payments for each planting only if the planting meets the requirements of part 1437 of this title and all other provisions of this subpart are satisfied.

§ 760.1805 Qualifying disaster events.

(a) A producer is eligible for payments under this subpart only if the producer's affected production of an eligible crop suffered a crop quality loss due to a qualifying disaster event.

(b) A crop quality loss due to a qualifying disaster event must have occurred on acreage that was physically located in a county that received a:

(1) Presidential Emergency Disaster Declaration authorizing public assistance for categories C through G or individual assistance due to a qualifying disaster event occurring in the 2018 or 2019 calendar years; or

(2) Secretarial Disaster Designation for a qualifying disaster event occurring in the 2018 or 2019 calendar years.

(c) A producer with a crop quality loss on acreage not physically located in a county that was eligible under paragraph (b) of this section will be eligible for the QLA Program for losses due to qualifying disaster events only if the producer provides supporting documentation from which the FSA county committee determines that the crop quality loss on the unit was reasonably related to a qualifying disaster event as specified in this subpart. Supporting documentation may include furnishing climatological data from a reputable source or other information substantiating the claim of loss due to a qualifying disaster event.

§ 760.1806 Ineligible losses.

(a) A loss is not eligible under this subpart if any of the following apply:

(1) The cause of loss is determined by FSA to be the result of poor management decisions, poor farming practices, or drifting herbicides;

(2) The loss could have been mitigated using good farming practices, including losses due to high moisture content that could be mitigated by following best practices for drying and storing the crop;

(3) The qualifying disaster event occurred after the crop was harvested;

(4) FSA or RMA have previously disapproved a notice of loss for the crop and disaster event, unless that notice of loss was disapproved solely because it was filed after the applicable deadline; or

(5) The cause of loss was due to:

(i) Conditions or events occurring outside of the applicable growing season for the crop;

(ii) Insect infestation;

(iii) Water contained or released by any governmental, public, or private dam or reservoir project if an easement exists on the acreage affected by the containment or release of the water;

(iv) Failure of a power supply or brownout; or

(v) Failure to harvest or market the crop due to lack of a sufficient plan or resources.

(b) [Reserved]

§ 760.1807 Miscellaneous provisions.

(a) All persons with a financial interest in a legal entity receiving payments under this subpart are jointly and severally liable for any refund, including related charges, that is determined to be due to FSA for any reason.

(b) In the event that any application under this subpart resulted from

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erroneous information or a miscalculation, the payment will be recalculated and any excess refunded to FSA with interest to be calculated from the date of the disbursement.

(c) Any payment to any participant under this subpart will be made without regard to questions of title under State law, and without regard to any claim or lien against the commodity, or proceeds, in favor of the owner or any other creditor except agencies of the U.S. Government. The regulations governing offsets and withholdings in part 3 of this chapter apply to payments made under this subpart.

(d) Any participant entitled to any payment may assign any payment(s) in accordance with regulations governing the assignment of payments in part 3 of this chapter.

(e) The regulations in parts 11 and 780 of this title apply to determinations under this subpart.

§ 760.1808 General provisions.

(a) Eligibility and payments under this subpart will be determined based on the county where the affected production was harvested.

(b) FSA county committees will make any necessary adjustments to the applicant's affected production and other information on the application form used to calculate a payment when the county committee determines:

(1) Additional documentation has been requested by FSA but has not been provided by the participant;

(2) The loss is due to an ineligible cause; or

(3) The participant has a contract providing a guaranteed payment for all or a portion of the crop.

(c) Unless otherwise specified, all eligibility provisions of part 1437 of this title also apply to tropical crops for eligibility under this subpart.

(d) FSA will use the most reliable data available at the time payments under this subpart are calculated. If additional data or information is provided or becomes available after a payment is issued, FSA will recalculate the payment amount and the producer must return any overpayment amount to FSA. In all cases, payments can only issue based on the payment formula for losses that affirmatively occurred.

(e) Production that is commingled between counties, crop years, or ineligible and eligible acres before it was a matter of record or combination of record and cannot be separated by using records or other means acceptable to FSA will be prorated to each respective year, county, or type of acreage, respectively.

§ 760.1809 Payment and adjusted gross income limitation.

(a) A person or legal entity, other than a joint venture or general partnership, is eligible to receive, directly or indirectly, payments of not more than $125,000 for each of the 2018, 2019, and 2020 crop years under this subpart.

(b) Payments made to a joint operation, including a joint venture or general partnership, cannot exceed the amount determined by multiplying the maximum payment amount specified in paragraph (a) of this section by the number of persons and legal entities, other than joint operations, that comprise the ownership of the joint operation.

(c) The direct attribution provisions in § 1400.105 of this title apply to payments under this subpart.

(d) The notification of interest provisions in § 1400.107 of this title apply to payments under this subpart.

(e) The provisions for recognizing persons added to a farming operation for payment limitation purposes as described in § 1400.104 of this title apply to payments under this subpart.

(f) The $900,000 average AGI limitation provisions in part 1400 of this title relating to limits on payments for persons or legal entities, excluding joint ventures and general partnerships, apply to each applicant for the QLA Program unless at least 75 percent of the person or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. A person's or legal entity's average AGI for each of the program years 2018, 2019 or 2020, is determined by using the average of the adjusted gross incomes for the 3 taxable years preceding the most immediately preceding taxable year. If the person's or legal entity's average AGI is below $900,000 or at least 75 percent of the person or legal entity's average AGI is derived from farming, ranching, or forestry-related activities, the person or legal entity, is eligible to receive payments under this subpart.

§ 760.1810 Time and method of application.

(a) A completed FSA–898, Quality Loss Adjustment (QLA) Program Application, must be submitted in person, by mail, email, or facsimile to any FSA county office by the close of business on March 5, 2020.

(b) An application submitted in accordance with paragraph (a) of this section is not considered valid and complete for issuance of payment under this subpart unless FSA determines all the applicable eligibility provisions have been satisfied and the producer has submitted all of following by March 19, 2020:

(1) Documentation required by § 760.1811;

(2) FSA–578, Report of Acreage, for all acreage for any crop for which payments under this subpart are requested;

(3) FSA–895, Crop Insurance and/or NAP Coverage Agreement; and

(4) For forage crops, FSA–899, Historical Nutritional Value Weighted Average Worksheet, if verifiable documentation of historical nutrient factors is available.

(c) In addition to the forms listed in paragraph (b) of this section, applicants must also submit all the following eligibility forms within 60 days from the date of signing the QLA Program application if not already on file with FSA:

(1) AD–1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation Certification;

(2) CCC–902 Automated, Farm Operating Plan for Payment Eligibility 2009 and Subsequent Program Years;

(3) CCC–941 Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information; and

(4) CCC–942 Certification of Income from Farming, Ranching and Forestry Operations, if applicable.

(d) Failure to submit all required forms by the applicable deadlines in paragraphs (b) and (c) of this section may result in no payment or a reduced payment.

(e) Application approval and payment by FSA does not relieve a participant from having to submit any form required, but not filed, according to this section.

(f) Once signed by a producer, the application is considered to contain information and certifications of and pertaining to the producer regardless of who entered the information on the application.

(g) The producer applying for payment under this subpart certifies the accuracy and truthfulness of the information provided in the application as well as any documentation filed with or in support of the application. All information is subject to verification or spot check by FSA at any time, either before or after payment is issued. Refusal to allow FSA or any agency of the USDA to verify any information provided will result in the participant's forfeiting eligibility for payment under this subpart. FSA may at any time, including before, during, or after processing and paying an application, require the producer to submit any additional information necessary to implement or determine any eligibility

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provision of this subpart. Furnishing information specified in this subpart is voluntary; however, FSA may choose not to act on the application or approve payment if the required information is not provided. Providing a false certification will result in ineligibility and can also be punishable by imprisonment, fines, and other penalties.

§ 760.1811 Required documentation and verification.

(a) If requested by FSA, an applicant must provide documentation that establishes the applicant's ownership share and value at risk in the crop.

(b) The applicant must provide acceptable documentation that is dated and contains all information required to substantiate the applicant's certification to the satisfaction of the FSA county committee. Verifiable documentation is required to substantiate the total dollar value loss and associated affected production, grading factors, and nutritional factors. FSA may verify the records with records on file at the warehouse, gin, or other entity that received or may have received the reported production. Reliable production records are required to substantiate the reported amount of affected production for applications not based on the total dollar value loss.

(c) To be considered acceptable, verifiable documentation for grain crops that were sold may come from any time between harvest and sale of the affected production, unless the FSA county committee determines the record is not representative of the condition within 30 days of harvest. For all other crops, the verifiable documentation must come from tests or analysis completed within 30 days of harvest, unless the FSA county committee determines that the record is representative of the condition of the affected production at time of harvest. Examples of acceptable records for purposes of this paragraph (c) include:

(1) Warehouse grading sheets;

(2) Settlement sheets;

(3) Sales receipts showing grade and price or disposition to secondary market due to quality; and

(4) Laboratory test results.

(d) For forage crops, producers must submit verifiable documentation showing the nutrient factors for the affected production. Producers must also submit verifiable documentation of the historical nutrient factors for the 3 preceding crop years if available. The nutrient factors that must be documented for a crop will determined by the FSA county committee based on the standard practice for the crop in that county.

(e) For all crops other than forage crops, producers must submit verifiable documentation of the total dollar value loss due to quality, if available, and verifiable documentation of grading factors due to quality.

(f) The participant is responsible for:

(1) Retaining, providing, and summarizing, at time of application and whenever required by FSA, the best available verifiable production records for the crop;

(2) Providing the information in a manner that can be easily understood by the FSA county committee; and

(3) Providing supporting documentation about the disaster event if the FSA county committee has reason to question the disaster event.

(e) Participants must provide all records for any production of a crop that is grown with an arrangement, agreement, or contract for guaranteed payment.

(f) Participants are required to retain documentation in support of their application for 3 years after the date of approval.

(g) Participants receiving QLA Program payments or any other person who furnishes such information to USDA must permit authorized representatives of USDA or the Government Accountability Office, during regular business hours, to enter the agricultural operation and to inspect, examine, and make copies of books, records, or other items for the purpose of confirming the accuracy of the information provided by the participant.

§ 760.1812 Payment calculation.

(a) Payments will be calculated separately for crops based on the crop type, intended use, certified organic or conventional status, county, and crop year.

(b) For forage crops with verifiable documentation of nutrient factors for the affected production and for the 3 preceding crop years, the payment will be equal to the producer's total affected production multiplied by the producer's verifiable percentage of loss, multiplied by the average market price, multiplied by 70 percent.

(c) For forage crops with verifiable documentation of nutrient factors for the affected production but not for the 3 preceding crop years, the payment will be equal to the producer's total affected production multiplied by the county average percentage of loss in paragraph (f) of this section, multiplied by the average market price, multiplied by 70 percent, multiplied by 50 percent.

(d) For crops other than forage with verifiable documentation of the total dollar value loss due to quality, the payment will be equal to the producer's total dollar value loss on the affected production, multiplied by 70 percent.

(e) For crops other than forage without verifiable documentation of the total dollar value loss but with verifiable documentation of grading factors, the payment will be equal to the producer's affected production multiplied by the county average loss per unit of measure in paragraph (g) of this section, multiplied by 70 percent, multiplied by 50 percent.

(f) The county average percentage of loss is the average percentage of loss from producers eligible for payment under paragraph (b) of this section if at least 5 producers in a county are eligible for payment for a crop under paragraph (b) of this section. If less than 5 producers in a county are eligible for payment for a crop under paragraph (b) of this section, the Deputy Administrator will:

(1) Determine a county average percentage of loss based on the best available data, including, but not limited to, evidence of losses in contiguous counties; or

(2) If a county average percentage of loss cannot be determined due to insufficient data, not issue payments to applicants under paragraph (c) of this section.

(g) The county average loss per unit of measure is based on the weighted average sales price from producers eligible for payment under paragraph (d) of this section if at least 5 producers in a county are eligible for payment for a crop under paragraph (d) of this section. If less than 5 producers are eligible for payment in a county under paragraph (d) of this section, the Deputy Administrator will:

(1) Determine a county average loss per unit of measure based on the best available data, including, but not limited to, evidence of losses in contiguous counties; or

(2) If a county average loss per unit of measure cannot be determined due to insufficient data, not issue payments to applicants under paragraph (e) of this section.

§ 760.1813 Availability of funds and timing of payments.

(a) Payments will be issued after the application period has ended and all applications have been reviewed by FSA.

(b) In the event that, within the limits of the funding made available by the Secretary, approval of eligible applications would result in payments

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in excess of the amount available, FSA will prorate payments by a national factor to reduce the payments to an amount that is less than available funds as determined by the Secretary.

(c) Applications and claims that are unpaid or prorated for any reason will not be carried forward for payment under other funds for later years or otherwise, but will be considered, as to any unpaid amount, void and nonpayable.

§ 760.1814 Requirement to purchase crop insurance or NAP coverage.

(a) For the first 2 consecutive crop years for which crop insurance or NAP coverage is available after the enrollment period for the QLA Program ends, a participant who receives payment under this subpart for a crop loss in a county must obtain:

(1) For an insurable crop, crop insurance with at least a 60 percent coverage level for that crop in that county; or

(2) For a NAP-eligible crop, NAP coverage with a coverage level of 60 percent.

(b) Participants who exceed the average adjusted gross income limitation for NAP payment eligibility [1] for the applicable crop year may meet the purchase requirement specified in paragraph (a)(2) of this section by purchasing Whole-Farm Revenue Protection crop insurance coverage, if eligible, or paying the NAP service fee and premium even though the participant will not be eligible to receive a NAP payment due to the average adjusted gross income limit.

(c) The final crop year to purchase crop insurance or NAP coverage to meet the requirements of paragraph (a) of this section is the 2023 crop year.

(d) A participant who obtained crop insurance or NAP coverage for the crop in accordance with the requirements for WHIP+ in § 760.1517 is considered to have met the requirement to purchase crop insurance or NAP coverage for the QLA Program.

(e) If a producer fails to obtain crop insurance or NAP coverage as required in this section, the producer must reimburse FSA for the full amount of QLA Program payment plus interest. A producer will only be considered to have obtained NAP coverage for the purposes of this section if the participant submitted a NAP application for coverage and paid the requisite NAP service fee and any applicable premium by the applicable deadline and completed all program requirements required under the coverage agreement, including filing an acreage report.

Richard Fordyce,

Administrator, Farm Service Agency.

[FR Doc. 2020–28914 Filed 1–5–21; 8:45 am]

BILLING CODE 3410–05–P

[1] See §§ 1400.500(a) and 1400.1(a)(4) of this title.

DEPARTMENT OF ENERGY

10 CFR Part 1061

RIN 1990–AA50

Procedures for the Issuance of Guidance Documents

AGENCY: Office of the General Counsel, Department of Energy.

ACTION: Final rule.

SUMMARY: The U.S. Department of Energy (DOE) publishes this final rule to establish procedures for the issuance of DOE guidance documents in accordance with Executive Order 13891. In this final rule, DOE establishes internal agency requirements for the contents of guidance documents, and procedures for providing notice of, and soliciting public comment on, certain guidance documents. This final rule also establishes procedures for the public to petition DOE to modify or withdraw guidance documents.

DATES: The effective date of this rule is February 5, 2021.

ADDRESSES: The docket for this rulemaking, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *https://www.regulations.gov*. All documents in the docket are listed in the *https://www.regulations.gov* index. However, not all documents listed in the index, such as those containing information that is exempt from public disclosure by law, may be publicly available. A link to the docket web page can be found at *https://www.regulations.gov/document?D=DOE-HQ-2020-0033-0001*. The docket web page explains how to access all documents, including public comments, in the docket.

FOR FURTHER INFORMATION CONTACT: Mr. Matthew Ring, U.S. Department of Energy, Office of the General Counsel, Forrestal Building, GC–33, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–2555, Email: *Guidance@hq.doe.gov*.

SUPPLEMENTARY INFORMATION:

I. Summary of Final Rule

In this final rule, DOE incorporates into the Code of Federal Regulations a new 10 CFR part 1061, which implements the requirements of Executive Order 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents.'' (84 FR 55235 (Oct. 15, 2019)) Among other things, Executive Order 13891 requires agencies to provide more transparency for their guidance documents by creating a searchable online database for current guidance documents,[1] and by establishing procedures to allow the public to comment on significant guidance documents and to petition the agency to withdraw or modify guidance documents.[2] Moreover, the Executive Order requires agencies to clearly state in their guidance documents that such guidance does not have the force and effect of law and is not legally binding, except as authorized by law or as incorporated into a contract. (84 FR 55235, 55237)

This final rule applies to all DOE guidance documents, as defined by Executive Order 13891, including the exceptions listed in section 2 of the Executive Order. This final rule also lists specific types of documents and communications that fall within the broader exceptions listed in the Executive Order (*e.g.,* speeches and presentations given by DOE officials, legal positions taken in litigation or enforcement actions). (See also OMB M–20–02, Guidance Implementing Executive Order 13891, Titled ''Promoting the Rule of Law Through Improved Agency Guidance Documents'' (Oct. 31, 2019), available at *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*). This final rule also adopts the same definition of ''significant guidance document'' as section 2 of Executive Order 13891.

In accordance with Executive Order 13891, this final rule requires that all DOE guidance documents clearly state that they do not have the force and effect of law and are not legally binding on the public, and that they are only intended to provide clarity to the public

[1] DOE's online database may be found at *energy.gov/guidance*.

[2] Executive Order 13891 defines ''significant guidance document'' as ''a guidance document that may reasonably be anticipated to: (i) Lead to an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (ii) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (iii) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (iv) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles of Executive Order 12866.'' (84 FR 55235, 55236)

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An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

Elizabeth K. Appel,

Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2021–00317 Filed 1–8–21; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–OIA–31249; PIN00IO14.XI0000]

U.S. Nominations to the World Heritage List; 15-Day Notice of Opportunity for Public Comment

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: This notice requests public comment on the next potential U.S. nominations from the U.S. World Heritage Tentative List (''Tentative List'') to the United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage List. The public may also make suggestions for future additions to the Tentative List. This notice complies with applicable World Heritage Program regulations.

DATES: Comments will be accepted on or before January 26, 2021.

ADDRESSES: You may submit comments by either of the following methods:

- *Mail to:* Jonathan Putnam, Office of International Affairs, National Park Service, 1849 C Street NW, Washington, DC 20240.
- *Email to: jonathan_putnam@nps.gov*. Phone: (202) 354–1809.

Comments will not be accepted in any way other than those specified above.

Information on the U.S. World Heritage program can be found at: *https://www.nps.gov/subjects/internationalcooperation/worldheritage.htm*.

To request a paper copy of the U.S Tentative List, please contact April Brooks, Office of International Affairs, National Park Service, 1849 C Street NW, Room 2415, Washington, DC 20240 (202) 354–1808, or Email: *april_brooks@nps.gov*.

FOR FURTHER INFORMATION CONTACT: Jonathan Putnam, (202) 354–1809.

For the World Heritage nomination format, see the World Heritage Centre website at: *http://whc.unesco.org/en/nominations*.

SUPPLEMENTARY INFORMATION:

Background

The World Heritage List is an international list of cultural and natural properties nominated by the signatories to the World Heritage Convention (1972), an international treaty for the preservation of natural and cultural heritage sites of global significance. U.S. participation and the roles of the Department of the Interior and the National Park Service are authorized by Title IV of the Historic Preservation Act Amendments of 1980 and conducted in accordance with 36 CFR part 73—World Heritage Convention. The National Park Service serves as the principal technical agency for the U.S. Government to the Convention.

A Tentative List is a national list of natural and cultural properties appearing to meet the World Heritage Committee eligibility criteria for nomination to the World Heritage List. It is a list of candidate sites which a country may consider for nomination within a given time period, but does not guarantee future nomination. The World Heritage Committee's *Operational Guidelines* ask participating nations to provide Tentative Lists, which aid in evaluating properties for the World Heritage List on a comparative international basis and help the Committee to schedule its work over the long term. A country cannot nominate a property unless it has been on its Tentative List for a minimum of a year. Countries also are limited at this time to nominating no more than one site in any given year.

Neither inclusion in the Tentative List nor inscription as a World Heritage Site imposes legal restrictions on owners or neighbors of sites, nor does it give the United Nations any management authority or ownership rights in U.S. World Heritage Sites, which continue to be subject to U.S. laws.

Current U.S. World Heritage Tentative List

The current U.S. World Heritage Tentative List includes the following properties:

Cultural Sites

Civil Rights Movement Sites, Alabama [other properties would be added for a complete nomination]

—Dexter Avenue King Memorial Baptist Church, Montgomery
—Bethel Baptist Church, Birmingham
—16th Street Baptist Church, Birmingham

Dayton Aviation Sites, Ohio

—Dayton Aviation Heritage National Historical Park

Hopewell Ceremonial Earthworks, Ohio

—Fort Ancient State Memorial, Warren County
—Hopewell Culture National Historical Park, near Chillicothe
—Newark Earthworks State Historic Site, Newark and Heath

Jefferson (Thomas) Buildings, Virginia (Proposed Jointly as an Extension to the World Heritage Listing of Monticello and the University of Virginia Historic District)

—Poplar Forest, Bedford County
—Virginia State Capitol, Richmond

Mount Vernon, Virginia

Serpent Mound, Ohio

Ellis Island, New Jersey and New York

Chicago Early Skyscrapers, Illinois, including: [Other Properties May Be Added in the Course of Developing a Nomination]

—Rookery
—Auditorium Building
—Monadnock Building
—Ludington Building
—Marquette Building
—Old Colony Building
—Schlesinger & Mayer (Carson, Pirie Scott) Department Store
—Second Leiter Building
—Fisher Building

Central Park, New York

Brooklyn Bridge, New York

Moravian Bethlehem District, Pennsylvania

Natural Sites

National Marine Sanctuary of American Samoa (Formerly Fagatele Bay National Marine Sanctuary, American Samoa)

Okefenokee National Wildlife Refuge, Georgia

Petrified Forest National Park, Arizona

White Sands National Monument, New Mexico

Marianas Trench National Monument, U.S. Territory, Commonwealth of the Northern Mariana Islands, Guam

Central California Current, California, Including

—Cordell Bank National Marine Sanctuary
—Monterey Bay National Marine Sanctuary
—Greater Farallones National Marine Sanctuary
—Farallon Islands National Wildlife Refuge

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NM-OTERO-21-0275-A-000501

—Point Reyes National Seashore
—Golden Gate National Recreation Area

Big Bend National Park, Texas

Pacific Remote Islands National Monument, U.S. Territorial Waters

Notes: (1) A nomination for the Hopewell Ceremonial Earthworks was authorized for preparation in May 2018 by the Department of the Interior and is now under development. (2) The Department has requested and is now awaiting advice from the International Council on Monuments and Sites (ICOMOS) on adding other properties to the proposal for the Civil Rights Movement Sites and its overall justification. (3) The government of the German state of Saxony is proposing an extension to the World Heritage listing of Christiansfeld, a Moravian Church Settlement in Denmark, that would include Herrnhut in Germany, the Moravian Bethlehem District in Bethlehem, Pennsylvania, and potentially other historic Moravian settlements in other countries.

Request for Public Comments

Comments on whether to authorize the preparation of a World Heritage nomination for any of the properties on the Tentative List should address the readiness and ability of the property owner(s) to prepare a satisfactory nomination document. Suggestions for additions to the Tentative List not previously submitted must address: (i) How the property(ies) would meet the World Heritage nomination criteria, requirements for authenticity, integrity, legal protection and management. Information on these criteria and requirements can be found on the website noted in the **FOR FURTHER INFORMATION CONTACT** section of this notice; and (ii) The U.S. legal prerequisites that include the agreement of all property owners to the nomination of their property, an official determination that the property is nationally significant (such as by designation as a National Historic or National Natural Landmark), and effective legal protection. All previous suggestions for the Tentative List made during previous comment periods or otherwise submitted since 2008, have been retained and considered and should not be resubmitted at this time.

Selection and Nomination

All public comments will be summarized and provided to Department of the Interior officials, who will obtain the advice of the Federal Interagency Panel for World Heritage before making any selection of properties for authorization to prepare a World Heritage nomination. The selection may include relevant factors, such as the likelihood of being able to complete a satisfactory nomination, and the fact that the United States is currently prohibited by law from providing any funding to UNESCO, including UNESCO and World Heritage member dues. Once authorized, the property owners may prepare a draft nomination.

The Department does not have a fixed schedule for completing or submitting World Heritage nominations. No more than one nomination from any country may be submitted per year, per the UNESCO World Heritage *Operational Guidelines.* Completed nominations, if approved by the Department for submission, may be submitted to the UNESCO World Heritage Centre by February 1 of any year.

Public Availability of Comments

All comments will be a matter of public record. Before including an address, phone number, email address, or other personal identifying information in a comment, members of the public should be aware that the entire comment—including personal identifying information—may be made public at any time. While commenters can request that personal identifying information be withheld from public review, it may not be possible to comply with this request.

Authority: 54 U.S.C. 307101; 36 CFR part 73.

George Wallace,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2021–00310 Filed 1–8–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#-31331; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before December 25, 2020, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by January 26, 2021.

ADDRESSES: Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line ''Public Comment on property or proposed district name, (County) State.'' If you have no access to email you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before December 25, 2020. Pursuant to Section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State or Tribal Historic Preservation Officers:

CALIFORNIA

Orange County

Johnson, Hugh Edgar, House, 444 W. Brookdale Pl., Fullerton, SG100006089

FLORIDA

Monroe County

Matecumbe Methodist Church Cemetery, 81801 Overseas Hwy., Islamorada, SG100006117

Pinellas County

House at 827 Mandalay Avenue, 827 Mandalay Ave., Clearwater, SG100006118

Sumter County

Wild Cow Prairie Cemetery, 5822 Cty. Rd. 673, Bushnell vicinity, SG100006119

Volusia County

Wright, James W., Building, 258 West Voorhis Ave., DeLand, SG100006120

Walton County

Herman Lodge No. 108 Free & Accepted Masons of Florida, 314 Madison St., Freeport, SG100006121

ILLINOIS

Cook County

Irving, James B., House, 2771 Crawford Ave., Evanston, SG100006102

AMERICAN OVERSIGHT

From: Jonna Lou Schafer <boredwell@dellcity.com>
Sent: Monday, January 11, 2021 9:20 PM EST
To: Couy Griffin <cgriffin@co.otero.nm.us>; Gerald Matherly <gmatherly@co.otero.nm.us>; Vickie Marquardt <vmarquardt@co.otero.nm.us>
CC: Pamela Heltner <pheltner@co.otero.nm.us>; Brian Muise <b.k.muise@gmail.com>; Gary Scarbrough <gary@dellcity.com>; Henerietta Stockel <hstockel@tularosa.net>; Jeff Stephan <pc1chap.nm@gmail.com>; Jeff Stephen <casadeosos.jeff@gmail.com>; Judy Medeiros <judymedeiros@msn.com>; Schafer <boredwell@dellcity.com>; Sidney Gordon <sgordon@nmsu.edu>; Twyla Lewis <tflewis@pvtn.net>; Walt Coffman <walt@pvtnetworks.net>
Subject: Fw: Linebery weekly email (federal register)
Attachment(s): "2020-28879.pdf","2020-28881.pdf","2020-28914.pdf","2021-00310.pdf"

FYI

From: Nicholas Ashcroft
Sent: Monday, January 11, 2021 7:03 PM
To:
Subject: Linebery weekly email (federal register)

2020-28879 - Council on Environmental Quality. Notice of online portal for agency guidance documents.

2020-28881- Council on Environmental Quality. Final rule.

2020-28914- Agricultural Disaster Indemnity Programs: Farm Service Agency (FSA), Department of Agriculture (USDA). Final rule.

2021-00310- U.S. Nominations to the World Heritage List; 15-Day Notice of Opportunity for Public Comment: National Park Service, Interior.

Nick Ashcroft
Natural Resource Policy Analyst
Linebery Policy Center for Natural Resource Management

nashcrof@nmsu.edu
575-646-5508 (office)

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7910–00–685–6660—Pad, Machine, Scrubbing, Floor, 17″ x ¼″
7910–00–685–6671—Pad, Machine, Polishing, Floor, 15″ x ¼″
7910–00–685–6672—Pad, Machine, Polishing, Floor, 17″ x ¼″
7910–00–685–6686—Pad, Machine, Polishing, Floor, 12″ x ¼″
7910–00–685–6687—Pad, Machine, Polishing, Floor, 13″ x ¼″
7910–00–820–7989—Pad, Floor, Buffing, Nylon, Tan, 15″
7910–00–NIB–0006—Pad, Floor, Burnishing, Animal Hair, Gray, 17″
7910–00–NIB–0009—Pad, Floor, Burnishing, Animal Hair, Gray, 21″
7910–00–NIB–0016—Pad, Floor, Polishing, Animal Hair, Beige, 17″
7910–00–NIB–0029—Pad, Floor, Buffing, Polyester, Red, 14″
7910–00–NIB–0030—Pad, Floor, Buffing, Polyester, Red, 15″
7910–00–NIB–0034—Pad, Floor, Scrubbing, Polyester, Blue, 14″
7910–00–NIB–0040—Pad, Floor, Scrubbing, Polyester, Blue, 21″
7910–01–512–5933—Pad, Floor, Stripping, Polyester, Brown, 17″
7910–01–512–5937—Pad, Floor, Scrubbing, Polyester, Blue, 13″
7910–01–512–5950—Pad, Floor, Scrubbing, Polyester, Blue, 17″

Designated Source of Supply: Beacon Lighthouse, Inc., Wichita Falls, TX
Contracting Activity: GSA/FSS Greater Southwest ACQUISITI, Fort Worth, TX

Michael R. Jurkowski,

Deputy Director, Business & PL Operations.

[FR Doc. 2021–00151 Filed 1–7–21; 8:45 am]

BILLING CODE 6353–01–P

COUNCIL ON ENVIRONMENTAL QUALITY

Guidance Document Online Portal

AGENCY: Council on Environmental Quality.

ACTION: Notice of online portal for agency guidance documents.

SUMMARY: In accordance with Executive Order (E.O.) 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' dated October 9, 2019, and Office of Management and Budget (OMB) Memorandum M–20–02, dated October 31, 2019, the Council on Environmental Quality (CEQ) is providing notice of where the public may access CEQ guidance documents.

ADDRESSES: The portal may be found at *https://www.whitehouse.gov/ceq/resources/*.

FOR FURTHER INFORMATION CONTACT: Amy B. Coyle, Deputy General Counsel, Council on Environmental Quality, 730 Jackson Place NW, Washington, DC 20503, 202–395–5750, *amy.b.coyle@ceq.eop.gov*.

SUPPLEMENTARY INFORMATION: E.O. 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' [1] requires that each agency establish or maintain on its website a single, searchable, indexed database that contains or links to all agency guidance documents [2] in effect. In accordance with E.O. 13891 and OMB's implementing guidance, set forth in OMB Memorandum M–20–02,[3] CEQ has complied with this requirement through its website portal, which is available to the public at *whitehouse.gov/ceq/resources*.[4] As required by E.O. 13891, the website also reiterates that: (1) The contents of the guidance documents accessed through the portal lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract; and (2) these documents are intended only to provide clarity to the public regarding existing requirements under statutes and regulations administered by CEQ. Under the E.O., CEQ may not cite, use, or rely on any guidance document that is not posted on or linked to the website portal, except to establish historical facts.

CEQ will also include on its website portal a link to its final rule establishing CEQ's internal agency procedures for issuing guidance documents, required by section 4 of E.O. 13891. The final rule relating to CEQ's guidance document procedures is published elsewhere in this issue of the **Federal Register**.

Authority: 42 U.S.C. 4321–4347; 42 U.S.C. 4371–4375; and E.O. 13891, 84 FR 55235.

Mary B. Neumayr,

Chairman.

[FR Doc. 2020–28879 Filed 1–7–21; 8:45 am]

BILLING CODE 3125–F1–P

[1] 84 FR 55235 (Oct. 15, 2019).

[2] E.O. 13891 defines ''guidance document'' as ''an agency statement of general applicability, intended to have future effect on the behavior of regulated parties, that sets forth a policy on a statutory, regulatory, or technical issue, or an interpretation of a statute or regulation. . . .'' *Id.*

[3] OMB issued its guidance memorandum on October 31, 2019. *See* M–20–02, Guidance Implementing Executive Order 13891, Titled ''Promoting the Rule of Law Through Improved Agency Guidance Documents'' (Oct. 31, 2019), *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*.

[4] CEQ's website portal at *https://www.whitehouse.gov/ceq/resources/* includes links to CEQ guidance documents and resources, some of which are provided on nepa.gov (*https://www.energy.gov/nepa/ceq-guidance-documents*) and sustainability.gov (*https://www.sustainability.gov/resources.html*).

DEPARTMENT OF EDUCATION

[Docket No. ED–2020–SCC–0167]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before February 8, 2021.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Find this information collection request by selecting ''Department of Education'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox. Comments may also be sent to *ICDocketmgr@ed.gov*.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, (202) 377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note

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PART 220—[REMOVED]

■ Accordingly, for the reasons stated in the preamble and under the authority of 5 U.S.C. 301, the Corps removes 33 CFR part 220.

R.D. James,

Assistant Secretary of the Army (Civil Works).

[FR Doc. 2020–27908 Filed 1–7–21; 8:45 am]

BILLING CODE 3720–58–P

COUNCIL ON ENVIRONMENTAL QUALITY

40 CFR Part 1519

RIN 0331–AA04

Guidance Document Procedures

AGENCY: Council on Environmental Quality.

ACTION: Final rule.

SUMMARY: Pursuant to Executive Order (E.O.) 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' this final rule establishes the process that the Council on Environmental Quality (CEQ) will follow for issuing guidance documents. E.O. 13891 requires Federal agencies to finalize regulations or amend existing regulations to establish processes and procedures for issuing guidance documents.

DATES: This rule is effective January 8, 2021.

FOR FURTHER INFORMATION CONTACT: Amy B. Coyle, Deputy General Counsel, Council on Environmental Quality, 730 Jackson Place NW, Washington, DC 20503, (202) 395–5750, *amy.b.coyle@ceq.eop.gov*.

SUPPLEMENTARY INFORMATION:

On October 9, 2019, President Trump issued E.O. 13891,[1] which addresses the development, use, and public availability of agency guidance documents. It requires agencies to promulgate or update existing regulations setting forth their procedures for issuing guidance documents. In accordance with section 6 of E.O. 13891, on October 31, 2019, the Office of Management and Budget (OMB) issued memorandum M–20–02, ''Guidance Implementing Executive Order 13891, Titled 'Promoting the Rule of Law Through Improved Agency Guidance Documents' '' (OMB M–20–02)[2] to provide guidance and implement the Executive order. OMB M–20–02 provides agencies with additional instruction on how to implement E.O. 13891, including the required rulemaking.

I. Summary of Final Rule

In this final rule, CEQ adds a new part 1519 to the Code of Federal Regulations to set out its procedures for the development and issuance of guidance documents consistent with the direction and reflecting the policies described in E.O. 13891 and OMB M–20–02.

A. Section 1519.1, ''Purpose''

Section 1519.1, ''Purpose,'' states that the purpose of part 1519 is to implement E.O. 13891, and explains CEQ's process for developing and issuing guidance.

B. Section 1519.2, ''Guidance Document Procedures''

Section 1519.2, ''Guidance document procedures,'' defines ''guidance documents'' in paragraph (a) and describes documents that do not meet that definition in paragraph (b), consistent with section 2(b)[3] of the E.O. and Q2 of OMB M–20–02.

Paragraph (c) of § 1519.2 lists the minimum requirements for any document meeting the definition of a guidance document consistent with Q22 of OMB M–20–02, including a title, unique identification number, date, indication of whether it revises or replaces prior guidance, summaries, and legal citations. Additionally, consistent with section 4(i) of E.O. 13891, paragraph (c)(6) includes a requirement that each guidance document clearly state that it does not bind the public, except as authorized by law or as incorporated into a contract.

Paragraph (c)(11) of § 1519.2 specifies that any guidance document must be posted on CEQ's website. E.O. 13891 also directed Federal agencies to make guidance documents publicly available in an indexed, searchable database online. As described in the **Federal Register** notice published today, CEQ has complied with this requirement through its website *whitehouse.gov/ceq/resources*.[4] As noted on this website, CEQ may not cite, use, or rely on any guidance that is not posted on its web pages except to establish historical facts. CEQ also makes clear that CEQ's guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract.

Finally, paragraph (d) of § 1519.2 requires the CEQ Office of the General Counsel to review and clear all guidance documents before CEQ issues them.

C. Section 1519.3, ''Procedures for the Public To Request Withdrawal or Modification of a Guidance Document''

Consistent with section 4(ii) of E.O. 13891, § 1519.3, ''Procedures for the public to request withdrawal or modification of a guidance document,'' addresses the process for members of the public to petition CEQ to withdraw or modify a particular guidance document, including designation of the Office of the General Counsel as the office within CEQ to which the public should direct such petitions. CEQ intends to provide additional instructions on its guidance website, including appropriate contact information and format of the petitions.

D. Section 1519.4, ''Significant Guidance Documents''

Finally, § 1519.4, ''Significant guidance documents,'' addresses specific requirements for a subset of ''guidance documents'' that are ''significant guidance documents'' as defined by section 2(c) of E.O. 13891. Paragraph (a) sets forth that definition. OMB's Office of Information and Regulatory Affairs (OIRA) makes the final determination of whether a guidance document is significant. If OIRA makes such a determination for a particular guidance document, this section will also apply. Consistent with section 4(iii) of E.O. 13891, paragraph (b) sets forth procedural requirements, including public notice and comment for at least 30 days, unless an exception applies; public response to major concerns raised in comments; approval on a non-delegable basis by the Chairman, or an official acting as Chairman; review by OIRA under Executive Order 12866; and compliance with the applicable requirements for regulations or rules.

II. Rulemaking Analyses and Notices

A. Regulatory Procedures

Under the Administrative Procedure Act, an agency may waive notice and comment procedures if an action is an interpretative rule, a general statement of policy, or a rule of agency organization, procedure, or practice. *See* 5 U.S.C. 553(b)(A). This rule describes the internal process that CEQ will follow to comply with the requirements specified in E.O. 13891 when issuing guidance documents as defined by the

[1] 84 FR 55235 (Oct. 15, 2019).

[2] OMB M–20–02 is available at *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*.

[3] E.O. 13891 section 2(b) lists the following as exclusions to the definition of guidance document. 84 FR at 55235–36.

[4] CEQ's website, *whitehouse.gov/ceq/resources*, includes links to CEQ guidance documents and resources, some of which are provided on *nepa.gov* and *sustainability.gov*.

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E.O. Because this rule is one of agency organization, procedure, or practice, it is exempt from the requirement to provide prior notice and opportunity for public comment.

B. Regulatory Planning and Review (E.O. 12866 and E.O. 13563)

E.O. 12866 provides that OIRA will review all significant rules. E.O. 13563 reaffirms the principles of E.O. 12866, calling for improvements in the Federal government's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory objectives. OMB determined that this final rule does not meet the requirements for a significant regulatory action under E.O. 12866, as supplemented by E.O. 13563, and therefore it was not subject to review.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, as amended (RFA), 5 U.S.C. 601 *et seq.,* and E.O. 13272 do not apply to this rulemaking because it is not subject to the notice and comment requirements of 5 U.S.C. 553(b).

D. Unfunded Mandates Reform Act

A statement containing the information required by the Unfunded Mandates Reform Act, 2 U.S.C. 1531 *et seq.,* is not required. This rule will not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year, and it will not have a significant or unique effect on State, local, or Tribal governments, or the private sector.

E. Reducing Regulation and Controlling Regulatory Costs (E.O. 13771)

This rule is not an E.O. 13771 regulatory action because this rule is not significant under E.O. 12866.

F. Federalism (E.O. 13132)

Under the criteria in section 1 of E.O. 13132, this rule will not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement because it will not substantially and directly affect the relationship between the Federal and State governments.

G. National Environmental Policy Act

The purpose of this rulemaking is to formalize the CEQ's administrative procedures for issuing guidance documents, as required by E.O. 13891. CEQ has determined that the final rule is a non-major Federal action under the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.,* and would not have any effect on the environment because it merely outlines internal CEQ administrative procedures and does not authorize any activity or commit resources to a project that may affect the environment.

H. Paperwork Reduction Act

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This rule will not impose recordkeeping or reporting requirements on State, local, or Tribal governments, individuals, businesses, or organizations.

List of Subjects in 40 CFR Part 1519

Administrative practice and procedure, Guidance.

Mary B. Neumayr,
Chairman.

■ For the reasons stated in the preamble, the Council on Environmental Quality adds 40 CFR part 1519 as follows:

PART 1519—GUIDANCE DOCUMENTS

Sec.
1519.1 Purpose.
1519.2 Guidance document procedures.
1519.3 Procedures for the public to request withdrawal or modification of a guidance document.
1519.4 Significant guidance documents.

Authority: 42 U.S.C. 4321–4347; 42 U.S.C. 4371–4375; and E.O. 13891, 84 FR 55235.

§ 1519.1 Purpose.

(a) This part implements Executive Order 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' and reflects the policies described in that order. The provisions in this part address the Council on Environmental Quality's procedures for the development and issuance of agency guidance documents. This part explains what constitutes guidance documents, and sets forth the minimum requirements for guidance documents, the procedures to request withdrawal or modification of guidance documents, and the additional requirements and procedures for significant guidance documents.

(b) This part is intended to improve the internal management of the Council on Environmental Quality. It is not intended to and does not create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its agencies or other entities, its officers or employees, or any other person.

(c) If Executive Order 13891 or any provision thereof is rescinded or superseded, this part remains in effect.

§ 1519.2 Guidance document procedures.

(a) *Definition of guidance documents.* For purposes of this part, guidance documents are agency statements of general applicability, intended to have future effect on the behavior of regulated parties, that set forth a policy on a statutory, regulatory, or technical issue, or an interpretation of a statute or regulation.

(b) *Documents excluded from the definition of guidance documents.* Guidance documents do not include:

(1) Agency statements of specific, rather than general, applicability.

(2) Agency statements that do not set forth a policy on a statutory, regulatory, or technical issue or an interpretation of a statute or regulation.

(3) Legislative rules promulgated under 5 U.S.C. 553 (or similar statutory provisions), or exempt from rulemaking requirements under 5 U.S.C. 553(a).

(4) Rules of agency organization, procedure, or practice that are not anticipated to have substantial future effect on the behavior of regulated parties or the public.

(5) Decisions of agency adjudication.

(6) Documents or agency statements that are directed solely to the Council on Environmental Quality or other agencies (or personnel of such agencies) that are not anticipated to have substantial future effect on the behavior of regulated parties or the public.

(7) Legal briefs and other court filings.

(8) Legal advice or opinions from the Council on Environmental Quality's Office of the General Counsel.

(9) Categories of guidance documents made exempt from Executive Order 13891 by the Administrator of the Office of Management and Budget's Office of Information and Regulatory Affairs through memoranda issued pursuant to section 4(b) of Executive Order 13891.

(c) *Elements of guidance documents.* In general, each guidance document must:

(1) Provide the title of the guidance document;

(2) Provide a unique document identification number;

(3) Identify the Council on Environmental Quality and any office, as appropriate, issuing the guidance document;

(4) Include the date of issuance;

(5) Include the term ''guidance'';

(6) Include a disclaimer clarifying that it does not have the force and effect of law; is not meant to bind the public in any way; and is intended only to provide clarity to the public regarding

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existing requirements under the law or agency policies. When a guidance document is binding because the law authorizes binding guidance or because a contract incorporates the guidance, the Council on Environmental Quality must modify the disclaimer to reflect accordingly;

(7) If it is a revision to or a replacement of a previously issued guidance document, identify the guidance document that it revises or replaces;

(8) Include a short summary of the subject matter covered in the guidance document at the top of the document;

(9) Identify the activities to which and the persons to whom the guidance document applies;

(10) Include the citation to the statutory provision or regulation to which the guidance document applies or which it interprets; and

(11) Be posted on the Council on Environmental Quality's website.

(d) *Review and clearance.* The Office of the General Counsel must review and clear all proposed guidance documents before issuance.

§ 1519.3 Procedures for the public to request withdrawal or modification of a guidance document.

(a) Any member of the public may petition the Council on Environmental Quality to withdraw or modify a guidance document.

(b) The petitioner must submit the request for the withdrawal or modification of a guidance document in writing to the Office of the General Counsel. The petition must contain a statement of the reasons for the petition and any supporting documents to support the petitioner's request.

(c) Upon receipt of a petition for withdrawal or modification of a guidance document, the Office of the General Counsel will consult with the relevant offices and coordinate the response to the petition.

(d) The Council on Environmental Quality should respond to a petition in writing, including electronically, within 90 days of receipt of a petition. The response should state whether the petition is granted, granted in part and denied in part, denied, or provisionally denied for lack of adequate information. If the petition is provisionally denied for lack of adequate information, the response should indicate what additional information is necessary to adjudicate the petition. The Office of the General Counsel should respond to the petition in writing no later than 90 days after receipt of the necessary additional information. The response should state whether the petition is granted, granted in part and denied in part, or denied.

(e) The Council on Environmental Quality may consider in a coordinated manner or provide a coordinated response to similar petitions for withdrawal or modification.

(f) The Council on Environmental Quality need not respond to petitions under this part for withdrawal or modification of documents that do not meet the definition of a guidance document.

§ 1519.4 Significant guidance documents.

(a) *Significant guidance documents definition.* For the purposes of this section, significant guidance documents are guidance documents that may be reasonably anticipated to:

(1) Lead to an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles of Executive Order 12866.

(b) *Actions the Council on Environmental Quality will take before issuing significant guidance documents.* When the Office of Management and Budget's Office of Information and Regulatory Affairs determines that a guidance document is a significant guidance document, the Council on Environmental Quality must:

(1) Submit the guidance document for review by the Office of Information and Regulatory Affairs under Executive Order 12866;

(2) Publish the draft significant guidance document in the **Federal Register** for a public notice and comment period of at least 30 days;

(i) This provision will not apply if the Council on Environmental Quality for good cause finds that notice and public comment is impracticable, unnecessary, or contrary to the public interest.

(ii) If such a finding is made, the Council on Environmental Quality must incorporate such a finding and a brief statement of its reasoning into the significant guidance document.

(3) Obtain approval on a non-delegable basis from the Chairman or an official who is serving in an acting capacity as the Chairman.

(4) Provide a public response to major concerns raised in comments on the draft significant guidance document.

(5) Announce the availability of the final significant guidance document.

(6) Comply with the applicable requirements for regulations or rules, including significant regulatory actions, set forth in Executive Orders 12866, ''Regulatory Planning and Review,'' 13563, ''Improving Regulation and Regulatory Review,'' 13609, ''Promoting International Regulatory Cooperation,'' 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' and 13777, ''Enforcing the Regulatory Reform Agenda.''

(c) *Exemption.* This section will not apply if the Chairman or an official who is serving in an acting capacity as the Chairman of the Council on Environmental Quality and the Administrator of the Office of Information and Regulatory Affairs agree that exigency, safety, health, or other compelling cause warrants an exemption from some or all requirements.

[FR Doc. 2020–28881 Filed 1–7–21; 8:45 am]

BILLING CODE 3225–F1–P

FEDERAL PERMITTING IMPROVEMENT STEERING COUNCIL

40 CFR Chapter IX

[Agency Docket Number 2020–001]

RIN 3121–AA01

Adding Mining as a Sector of Projects Eligible for Coverage Under Title 41 of the Fixing America's Surface Transportation Act

AGENCY: Federal Permitting Improvement Steering Council.

ACTION: Final rule.

SUMMARY: The Federal Permitting Improvement Steering Council (Permitting Council) has voted to add mining as a sector with infrastructure projects eligible for coverage under Title 41 of the Fixing America's Surface Transportation Act (FAST–41). A new part will be included in the Code of Federal Regulations that adds mining to the list of statutory FAST–41 sectors. The addition of mining as a FAST–41 sector will allow qualified mining infrastructure projects to become FAST–41 covered projects. FAST–41 coverage will help Federal agencies coordinate their environmental and project review efforts to improve the timeliness, efficiency, predictability, and transparency of the decision-making processes associated with covered

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Rules and Regulations

Federal Register
Vol. 86, No. 3
Wednesday, January 6, 2021

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 760

[Docket ID: FSA–2020–0011]

RIN 0560–AI55

Agricultural Disaster Indemnity Programs

AGENCY: Farm Service Agency (FSA), Department of Agriculture (USDA).

ACTION: Final rule.

SUMMARY: This rule establishes the Quality Loss Adjustment (QLA) Program to provide assistance to producers who suffered eligible crop quality losses due to hurricanes, excessive moisture, floods, drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. It also amends the provisions for the Wildfire and Hurricane Indemnity Program Plus (WHIP+) to be consistent with the Further Consolidated Appropriations Act, 2020, by adding excessive moisture and drought occurring in 2018 and 2019 as qualifying disaster events and clarifying eligibility of sugar beets. The changes to WHIP+ were self-enacting and were previously implemented by FSA.

DATES:

Effective date: January 6, 2021.

Comment due date: Comments are due by March 8, 2021.

ADDRESSES: We invite you to submit comments on this rule. You may submit comments by either of the following methods, although FSA prefers that you submit comments electronically through the Federal eRulemaking Portal:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and search for Docket ID FSA–2020–0011. Follow the instructions for submitting comments.
- *Mail:* Director, SND, FSA, U.S. Department of Agriculture, 1400 Independence Avenue SW, Stop 0522, Washington, DC 20250–0522. In your comment, specify the docket ID FSA–2020–0011.

Comments will be available for viewing online at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Kimberly Graham at (202) 720–6825 (voice); or by email at: *kimberly.graham@usda.gov*. Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice).

SUPPLEMENTARY INFORMATION:

Background

The Additional Supplemental Appropriations for Disaster Relief Act, 2019 (''Disaster Relief Act,'' Pub. L. 116–20) provided disaster assistance for necessary expenses related to losses of crops (including milk, on-farm stored commodities, crops prevented from planting in 2019, and harvested adulterated wine grapes), trees, bushes, and vines, as a consequence of hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. The Further Consolidated Appropriations Act, 2020 (Pub. L. 116–94), makes several changes to the provisions of the Disaster Relief Act, including:

- Specifying that assistance would be provided for crop quality losses;
- Adding excessive moisture as a qualifying disaster event;
- Adding drought as a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year; and
- Providing that sugar beet losses in 2018 and 2019 would be paid through cooperative processors (to be paid to producer members as determined by such processors).

This rule implements those provisions of the Further Consolidated Appropriations Act, 2020, by establishing the QLA Program to provide assistance for crop quality losses and amending the WHIP+ regulations to be consistent with the changes to qualifying disaster events and eligibility of sugar beet losses.

QLA Program

This rule establishes the QLA Program to provide disaster assistance for crop quality losses that were a consequence of hurricanes, excessive moisture, floods, qualifying drought, tornadoes, typhoons, volcanic activity, snowstorms, or wildfires occurring in calendar years 2018 and 2019. Eligible crops generally include crops for which FCIC crop insurance coverage or Noninsured Crop Disaster Assistance Program (NAP) coverage is available; however, value loss crops,[1] honey, and maple sap are not eligible. The QLA Program provides assistance for losses to crops that were sold or fed to livestock or are in storage; crops that were destroyed are not eligible. Assistance will be based on a producer's harvested affected production of an eligible crop that had a quality loss due to a qualifying disaster event and had at least a 5 percent quality loss due to all eligible disaster events.

Qualifying disaster events include hurricanes, floods, tornados, typhoons, volcanic activity, snowstorms, wildfires, excessive moisture, qualifying drought, and related conditions that occurred in the 2018 or 2019 calendar year. Assistance is available for eligible producers in counties that received a qualifying Presidential Emergency Disaster Declaration (declaration) or Secretarial Disaster Designation (designation) due to one or more of the qualifying disaster events or a related condition. As required by the Further Consolidated Appropriations Act, 2020, drought is only a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year (referred to as ''qualifying drought'' in this rule). Only producers in those counties that received a disaster declaration or designation qualify for the QLA Program based on the declaration or designation. Producers in counties that did not receive a qualifying declaration or designation may still apply; however, they must also provide supporting documentation to establish that the crop was directly affected by a qualifying disaster event and suffered the same

[1] Value loss crops include aquaculture, floriculture, mushrooms, ginseng root, ornamental nursery, sea grass and sea oats, Christmas trees, and turfgrass sod.

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minimum loss as required by a crop in a disaster declared or designated county. Lists of counties with Presidential Emergency Disaster Declarations and Secretarial Disaster Designations for all qualifying disaster events for 2018 and 2019 are available at *farmers.gov/quality-loss.*

FSA recognizes that a crop may suffer quality losses due to multiple disaster events in a single crop year, and the portion of a crop's quality loss that can be attributed to a specific disaster event may be difficult to determine. Therefore, while a qualifying disaster event must have caused at least a portion of the affected production's quality loss, FSA will consider the total quality loss caused by all eligible disaster events for eligibility and payment calculation purposes. Eligible disaster events for the QLA Program include those listed for NAP in 7 CFR 1437.10, except that the QLA Program does not cover losses due to insect infestation.

The QLA Program does not cover losses due to disaster events occurring after a crop was harvested or due to crop deterioration while in storage. Quality losses that could have been mitigated using good farming practices are not eligible. For example, if a producer's corn crop received a quality discount due to high moisture content, the producer could have mitigated that quality loss by using best practices for drying and storing the crop; therefore, that producer's quality loss due to high moisture is not eligible. The QLA Program does not provide assistance for losses that cannot be determined to have occurred or for losses for which a notice of loss was previously disapproved by FSA, RMA, or an approved insurance provider selling and servicing Federal crop insurance policies unless that notice of loss was disapproved solely because it was filed after the applicable deadline.

The QLA Program does not provide assistance for certain quality losses that were already compensated under a Federal crop insurance plan, NAP, or WHIP+. This includes losses to affected production of:

- Multiple market crops already compensated under crop insurance or WHIP+;
- Crops for which production used to calculate a crop insurance indemnity or WHIP+ payment was adjusted based on a comparison of the producer's sale price to the FCIC established price;
- Crops that received a crop insurance indemnity, NAP payment, or WHIP+ payment based on the quantity of production that was considered unmarketable; and
- Crops for which production was reported as salvage value or secondary use.

The QLA Program also excludes quality losses to sugar beets that were compensated through cooperative agreements with cooperative processors.

Affected production of a subsequent crop grown on double cropped acreage is only eligible if the crop has been approved as an eligible double cropping practice by the FSA State committee.

Application

FSA will accept QLA Program applications from January 6, 2021, through March 5, 2021. To apply, producers must submit a completed QLA Program application either in person, by mail, email, or facsimile to an FSA county office. To be eligible, a producer must submit a complete application, which includes all of the following:

- FSA–898, Quality Loss Adjustment (QLA) Program Application;
- FSA–899, Historical Nutritional Value Weighted Average Worksheet (only for forage crops with verifiable documentation of historical nutrient factors from the 3 preceding crop years);
- FSA–578, Report of Acreage;
- FSA–895, Crop Insurance and/or NAP Coverage Agreement; and
- Required documentation, as discussed below.

The FSA–578, FSA–895, and FSA–899 forms, and other required documentation must be submitted to the producer's county office by March 19, 2021.

If not already on file with FSA, producers must also submit the following eligibility forms for each crop year within 60 days of the date the producer signs the application:

- AD–1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification;
- CCC–902, Farm Operating Plan for Payment Eligibility;
- CCC–941 Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information; and
- CCC–942 Certification of Income from Farming, Ranching and Forestry Operations, if applicable.

Payments will not be made until all necessary eligibility documentation is received. Failure of an applicant to submit documentation timely may result in FSA not issuing a payment or, in the case of legal entities, a reduced payment if the required documentation for one or more members of the entity is not submitted timely.

Required Documentation

To support their applications, producers must submit documentation showing the quality loss and quantity of affected production by March 19, 2021. Documentation of the quality loss (total dollar value loss, grading factors, and nutrient factors, as applicable), must be verifiable. Verifiable documentation is documentation that can be verified by FSA through an independent source; FSA may verify the submitted records with records on file at the warehouse, gin, laboratory, or other entity that received or tested the reported production. Examples of acceptable, verifiable documentation include warehouse grading sheets, settlement sheets, sales receipts, and laboratory test results. Except for grain crops that have been sold, the documentation must be from laboratory tests or analysis completed within 30 days of harvest to be considered acceptable, unless the FSA county committee determines that the record is representative of the condition of the affected production within 30 days of harvest. For grain crops that were sold, the verifiable documentation can be from any time from harvest through the time of sale, unless the FSA county committee determines the record is not representative of the condition within 30 days of harvest. Producers who do not have acceptable, verifiable documentation are ineligible for the QLA Program.

For forage crops, all producers must submit verifiable documentation showing the nutrient factors for the affected production of the crop. Producers must also submit verifiable documentation of the historical nutrient factors for the 3 preceding crop years if available. The type of nutrient factors (such as relative feed value or total digestible nutrients) that must be documented for a particular crop will be determined by the FSA county committee based on the standard practice for the crop in that county. For all crops other than forage crops, producers must submit verifiable documentation of the total dollar value loss due to quality, if available, and verifiable documentation of grading factors due to quality.

Documentation to support the quantity of affected production included on the application must be verifiable for non-forage crops that receive a QLA payment based on the producer's total dollar value loss. For all other crops (non-forage crops without a producer's total dollar value loss and all forage crops), records to support the quantity of affected production must be reliable. Reliable production records means evidence provided by the participant that is used to substantiate the amount of production reported when verifiable

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records are not available, including copies of receipts, ledgers of income, income statements of deposit slips, register tapes, invoices for custom harvesting, and records to verify production costs, contemporaneous measurements, truck scale tickets, and contemporaneous diaries that are determined acceptable by the FSA county committee. To determine whether the records are acceptable, the FSA county committee will consider whether they are consistent with the records of other producers of the crop in that area.

Payment Calculation

QLA Program payments will be calculated using different formulas based on the type of crop (forage or non-forage) and based on the type of documentation submitted. All QLA payments, regardless of whether they are forage or non-forage, and the type of documentation submitted, will be calculated using a 70 percent payment factor. Payments calculated based on a county average loss, as described below, will be subject to an additional payment factor of 50 percent.

For forage crops with verifiable documentation of both the nutrient factors for the affected production and historical nutrient factors for the 3 preceding crop years, payment will be equal to the amount of the producer's total affected production multiplied by the producer's verifiable percentage of loss, multiplied by the average market price determined by FSA, multiplied by 70 percent. The producer's verifiable percentage of loss is determined by comparing the nutrient factor test results for the affected production to the average from the 3 preceding crop years, as documented on the FSA–899, Historical Nutritional Value Weighted Average Worksheet. The average market price for the QLA Program is the price used for NAP established according to 7 CFR 1437.12.

For forage crops with verifiable documentation of nutrient factors for the affected production but without historical nutrient factors for the 3 preceding crop years, the payment will be equal to the amount of the producer's total affected production multiplied by the county average percentage of loss, multiplied by the average market price determined by FSA, multiplied by 70 percent, multiplied by 50 percent.

For affected production of non-forage crops with verifiable documentation of the total dollar value loss due to quality, the QLA Program payment is equal to the producer's total dollar value loss on the affected production of the crop, multiplied by a payment factor of 70 percent.

For non-forage crops without verifiable documentation of a total dollar value loss but with verifiable documentation of grading factors due to quality, the payment will be equal to the amount of producer's affected production multiplied by the county average loss per unit of measure, multiplied by 70 percent, multiplied by 50 percent.

To determine the county average percentage of loss (for forage crops) or the county average loss per unit of measure (for non-forage crops), FSA will calculate the average loss for a crop based on losses of producers applying with verifiable documentation of historical nutritional factors (for forage crops) or the total dollar value loss (for non-forage crops) if at least 5 eligible producers submitted that documentation in the county. If less than 5 eligible producers in a county submit verifiable documentation of their historical nutritional factors or their total dollar value loss, FSA will determine a county average percentage of loss or county average loss per unit of measure based on the best available data, including losses of other QLA Program participants in contiguous counties. If sufficient data is still not available after considering other sources, FSA may determine that a county average cannot be calculated and producers in that county applying for payment under the applicable calculation are ineligible.

Payments for the QLA Program will not be issued until the application period has ended in order to allow FSA to determine the county average losses, as well as the total payments requested under the QLA Program. The Further Consolidated Appropriations Act, 2020 provides funding for the QLA Program to be available until December 31, 2021, in an amount equal to the remaining funds provided under the Bipartisan Budget Act of 2018 (Pub. L. 115–123) for losses due to Hurricanes Harvey, Irma, Maria, and other hurricanes and wildfires occurring in calendar year 2017,[2] and remaining funds provided under the Disaster Relief Act for losses due to Hurricanes Michael and Florence, other hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.[3] If the total amount of calculated QLA Program payments exceeds the amount of funding available, FSA will prorate all payments by a national factor.

A person or legal entity, other than a joint venture or general partnership, is eligible to receive, directly or indirectly, up to $125,000 per crop year in QLA Program payments. FSA will use the notification of interest provisions in 7 CFR 1400.107 and payment attribution provisions in 7 CFR 1400.105 for attributing and limiting payments to persons and legal entities. FSA will also use provisions in 7 CFR 1400.104 when changes in a farming operation result in an increase in persons to which payment limitation applies. Payments made to a joint operation (including a general partnership or joint venture) cannot exceed $250,000 per person or legal entity that comprise the ownership of the joint operation. Payments made to a legal entity will be reduced proportionately by an amount that represents the direct or indirect ownership in the legal entity by any person or legal entity that has otherwise reached the maximum payment limitation. These rules for attributing and limiting payments are consistent with the programs FSA administers on behalf of the Commodity Credit Corporation.

A person or legal entity, other than a joint venture or general partnership, is ineligible for a 2018, 2019, or 2020 payment if the person's or legal entity's average adjusted gross income (AGI) is more than $900,000, unless at least 75 percent of that person's or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. The average AGI for each of the program years 2018, 2019, or 2020, is determined using the average of the adjusted gross incomes for the 3 taxable years preceding the most immediately preceding taxable year. For example, for the 2019 program year, the producer's AGI would be based on the 2015, 2016, and 2017 tax years. If at least 75 percent of the person's or legal entity's AGI is derived from farming, ranching, or forestry-related activities and the participant provides the required certification and documentation, the person or legal entity is eligible to

[2] FSA provided assistance for losses due to Hurricanes Harvey, Irma, Maria, and other hurricanes and wildfires occurring in calendar year 2017 through the 2017 Wildfires and Hurricanes Indemnity Program (2017 WHIP) (final rule published July 18, 2018, 83 FR 33795–33809) and the Florida Citrus Recovery Grant Program.

[3] FSA has previously provided assistance for losses due to Hurricanes Michael and Florence, other hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019 through the Wildfires and Hurricanes Indemnity Program Plus (WHIP+), On-Farm Storage Loss Program, and Milk Loss Program (final rule published September 13, 2019, 84 FR 48518–48537), as well as through several grants and cooperative agreements with sugar beet cooperatives.

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receive QLA Program payments up to the applicable payment limitation noted above. With respect to joint ventures and general partnerships, this AGI provision will be applied to each member of the joint venture and general partnership.

Requirement to Purchase Crop Insurance or NAP Coverage

The Disaster Relief Act requires all participants who receive QLA Program payments to purchase crop insurance or NAP coverage for the next 2 available crop years. The latest year for meeting compliance with this provision will be the 2023 crop year. In other words, if the 2 consecutive years of coverage are not met by 2023 coverage year, the participant is ineligible for and must refund QLP Program payments. Participants must obtain crop insurance or NAP, as may be applicable, at the 60 percent coverage level or higher. In situations where crop insurance is unavailable for a crop, the Disaster Relief Act requires that a QLA Program participant obtain NAP coverage. Section 1001D of the Food Security Act of 1985 (1985 Farm Bill) provides that a person or entity with AGI in amount greater than $900,000 is not eligible to participate in NAP; however, producers with an AGI greater than $900,000 may be eligible for the QLA Program if at least 75 percent of that person's or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. Accordingly, in order to reconcile this restriction in the 1985 Farm Bill and the Disaster Relief Act's requirement to obtain NAP or crop insurance coverage, QLA Program participants may meet the Disaster Relief Act's purchase requirement by purchasing Whole-Farm Revenue Protection crop insurance coverage, if eligible, or they may pay the applicable NAP service fee and premium for the 60 percent coverage level despite their ineligibility for a NAP payment. In other words, the service fee and premium must be paid even though no NAP payment may be made because the AGI of the person or entity exceeds the 1985 Farm Bill limitation.

The crop insurance and NAP coverage requirements are specific to the crop and county (county where the crop is physically located for insurance and administrative county for NAP) for which QLA Program payments are paid. This means that a producer is required to purchase crop insurance or NAP coverage for the crop in the county for which the producer was issued a QLA Program payment. Producers who receive a payment on a crop in a county and who have the crop or crop acreage in subsequent years, as provided in this rule, and who fail to obtain the 2 years of crop insurance or NAP coverage must refund all QLA Program payments for that crop in that county with interest from the date of disbursement. This is a condition of payment eligibility specified by Disaster Relief Act and is therefore not subject to partial payment eligibility or other types of equitable relief. Producers who were paid under the QLA Program for a crop in a county but do not plant that crop in a subsequent year are not subject to the crop insurance or NAP purchase requirement. WHIP+ participants who already met the requirement to purchase crop insurance or NAP coverage as specified in 7 CFR 760.1517 are considered to have also met the requirement to purchase crop insurance or NAP coverage for QLA Program purposes, and they are not required to obtain additional years of crop insurance or NAP coverage as a result of also receiving a QLA Program payment for that crop.

Applicable general eligibility requirements, including recordkeeping requirements and required compliance with HELC and Wetland Conservation provisions, are similar to those for the previous ad hoc crop disaster programs and current permanent disaster programs. All information provided to FSA for program eligibility and payment calculation purposes, including production records, is subject to spot check.

WHIP+

FSA, on behalf of the Secretary of Agriculture, previously implemented provisions of the Disaster Relief Act by establishing WHIP+ through a final rule published on September 19, 2019 (84 FR 48518–48537). The Disaster Relief Act provided assistance for losses of crops, trees, bushes, and vines, as a consequence of hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. WHIP+ covers only production losses of crops except in specific circumstances discussed previously in this document when the producer may have also been compensated for quality losses.

This rule amends 7 CFR 760.1500(c) and the definition of ''qualifying disaster event'' in § 760.1502 to include excessive moisture and qualifying drought. As under the QLA Program, drought is only considered a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year. This rule adds definitions of ''qualifying drought'' and ''U.S. Drought Monitor'' in § 760.1502.

The addition of these qualifying disaster events for WHIP+ was self-enacting as the text in the law clearly specified the required changes without need for interpretation; therefore, FSA began the sign-up period for losses due to excessive moisture and qualifying drought on March 23, 2020, and sign-up ended on October 30, 2020. Producers applying for WHIP+ assistance for losses due to excessive moisture or qualifying drought were required to meet all requirements in 7 CFR part 760, subpart O, including the requirement to purchase crop insurance for 2 years as specified in § 760.1517.

The Further Consolidated Appropriations Act, 2020 also directed the Secretary to pay sugar beet losses in 2018 and 2019 through cooperative processors. FSA has established cooperative agreements with sugar beet processors; those processors will be responsible for distributing assistance to their members. This rule amends the eligibility provisions in § 760.1517 to specify that members of cooperatives are not eligible for a WHIP+ payment for sugar beet losses.

FSA is also updating § 760.1510(a) to reflect the application deadline of October 30, 2020, and correcting references in §§ 760.1508(c) and (f) and 760.1511(a)(6).

Notice and Comment and Effective Date

The Administrative Procedure Act (5 U.S.C. 553) provides that the notice and comment and 30-day delay in the effective date provisions do not apply when the rule involves a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts. This rule involves programs for payments to certain agricultural commodity producers and therefore falls within that exemption. Due to the nature of the rule and the need to implement the regulations expeditiously to provide assistance to agricultural producers, FSA finds that notice and public procedure are contrary to the public interest. Therefore, even though this rule is a major rule for purposes of the Congressional Review Act, FSA is not required to delay the effective date for 60 days from the date of publication to allow for Congressional review. Therefore, this rule is effective upon publication in the **Federal Register**.

Executive Orders 12866, 13563, 13771 and 13777

Executive Order 12866, ''Regulatory Planning and Review,'' and Executive

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Order 13563, ''Improving Regulation and Regulatory Review,'' direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13777, ''Enforcing the Regulatory Reform Agenda,'' established a Federal policy to alleviate unnecessary regulatory burdens on the American people.

The Office of Management and Budget (OMB) designated this rule as economically significant under Executive Order 12866, and therefore, OMB has reviewed this rule. The costs and benefits of this rule are summarized below. The full cost benefit analysis is available on *regulations.gov.*

Executive Order 13771, titled Reducing Regulation and Controlling Regulatory Costs, was issued on January 30, 2017. The OMB guidance in M–17–21, dated April 5, 2017, specifies that ''transfers'' are not covered by Executive Order 13771 but that requirements imposed apart from transfers in transfer rules may qualify as costs or cost savings under Executive Order 13771, for example the information collection requirements in this rule. This rule is not subject to the requirements of E.O. 13771 because this rule results in no more than de minimis costs.

Cost Benefit Analysis Summary

WHIP+ initially provided approximately $3 billion in supplemental assistance to producers for qualifying agricultural production losses. In the Further Consolidated Appropriations Act, 2020, Congress changed provisions of the Disaster Relief Act as follows:

1. Extended eligibility under WHIP+ to also cover [4]—

a. Crop production losses due to excessive moisture in calendar years 2018 and 2019;

b. Crop production losses due to drought in calendar years 2018 and 2019 if the area within the county in which the loss occurred was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year;

2. Provided assistance for sugar beet losses in 2018 and 2019 to be paid through cooperative processors; [5] and

3. Authorized assistance for crop quality losses that occurred in calendar years 2018 and 2019 through the QLA Program (implemented by this rule).

Eligible crops under the QLA Program include crops for which Federal crop insurance or NAP coverage is available. To be eligible for the QLA Program, a crop must have suffered a quality loss due to a qualifying disaster event and had at least a 5 percent quality discount due to a combination of the qualifying disaster event and any other QLA-eligible causes of loss. Eligible crops may have been sold, fed on farm to livestock, or been in storage at the time of application.

USDA estimates the Further Consolidated Appropriations Act, 2020 will provide approximately $950 million for the continuation of disaster assistance program delivery, including payments to eligible producers for production losses due to excessive moisture and extreme drought under WHIP+ and for quality losses covered by the QLA Program. Of that amount, USDA anticipates that an estimated $500 million will be available for QLA Program payments. However, the amount of funding ultimately available for the QLA Program will not be known until other payments, for example for excessive moisture and drought under WHIP+, are finalized.

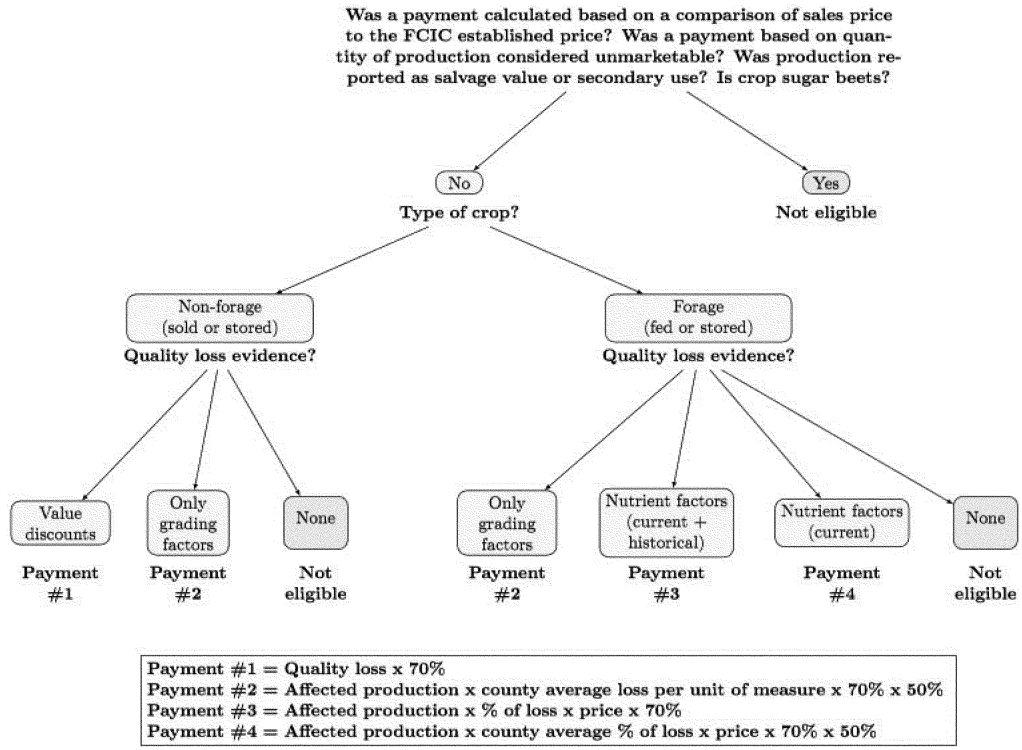
The QLA Program payment calculation depends on several factors, as shown in Figure 1. A producer is ineligible for a QLA Program payment if they received a crop insurance indemnity, NAP payment, or WHIP+ payment for a crop that was unmarketable, sold for salvage value or secondary use, or if the payment was based on a comparison of the sales price of the affected production and the applicable reference price. Otherwise, payments or benefits received under the Federal crop insurance, NAP or WHIP+ do not affect a producer's eligibility or payment received from the QLA Program. The payment calculation depends on the use of production (non-forage or forage) and evidence at hand of the crop quality loss. Producers who do not have evidence of the quality loss are ineligible.

[4] The addition of excessive moisture and certain drought conditions as qualifying causes of loss under WHIP+ is specific, not open to interpretation, and is therefore self-enacting. Accordingly, the provision was previously implemented. FSA began the sign-up period on March 23, 2020, and sign-up ended on October 30, 2020.

[5] Assistance for sugar beet losses for members of cooperative processors is provided through a separate program.

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Figure 1. Eligibility and Payment Calculation



Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA, Pub. L. 104–121), generally requires an agency to prepare a regulatory flexibility analysis of any rule whenever an agency is required by the Administrative Procedure Act or any other law to publish a proposed rule, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule is not subject to the Regulatory Flexibility Act because USDA is not required by Administrative Procedure Act or any law to publish a proposed rule for this rulemaking.

Environmental Review

The environmental impacts of this final rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and the FSA regulation for compliance with NEPA (7 CFR part 799). The legislative intent for implementing the QLA Program is to provide assistance to producers who suffered eligible crop quality losses due to hurricanes, excessive moisture, floods, drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.

While OMB has designated this rule as ''economically significant'' under Executive Order 12866, ''economic or social effects are not intended by themselves to require preparation of an environmental impact statement'' (see 40 CFR 1502.16(b)), when not interrelated to natural or physical environmental effects.

For this rule, the FSA Categorical Exclusions found in 7 CFR 799.31 apply, specifically 7 CFR 799.31(b)(6)(iii), (iv), and (vi) (that is, § 799.31(b)(6)(iii) Financial assistance to supplement income, manage the supply of agricultural commodities, or influence the cost or supply of such commodities or programs of a similar nature or intent (that is, price support programs); § 799.31(b)(6)(iv) Individual farm participation in FSA programs where no ground disturbance or change in land use occurs as a result of the proposed action or participation; and § 799.31(b)(6)(vi) Safety net programs administered by FSA). No Extraordinary Circumstances (7 CFR 799.33) exist.

For the outlined reasons, FSA has determined that the implementation of the QLA Program and the participation in the QLA Program does not constitute a major Federal action that would significantly affect the quality of the human environment, individually or cumulatively. Therefore, FSA will not prepare an environmental assessment or environmental impact statement for this regulatory action.

Executive Order 12372

Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' requires consultation with State and local officials that would be directly affect by proposed Federal financial assistance. The objectives of the Executive order are to foster an intergovernmental partnership and a strengthened federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance and direct Federal development. For reasons specified in the final rule related notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs and activities

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within this rule are excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, ''Civil Justice Reform.'' This rule will not preempt State or local laws, regulations, or policies unless they represent an irreconcilable conflict with this rule. The rule will not have retroactive effect. Before any judicial action may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR parts 11 and 780 must be exhausted.

Executive Order 13132

This rule has been reviewed under Executive Order 13132, ''Federalism.'' The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, except as required by law. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

The USDA's Office of Tribal Relations (OTR) has assessed the impact of this rule on Indian Tribes and determined that this rule may have significant Tribal implications that require ongoing adherence to Executive Order 13175. OTR notes that the programs are similar to programs that have been administered by FSA and RMA in the past; having not heard any concerns regarding the administration of these in the past, and the fact that provisions are mandated in the Disaster Relief Act, OTR recommended that consultation is not required at this time. Tribes can request consultation at any time. FSA will work with OTR to ensure meaningful consultation is provided where changes, additions, and modifications identified in this rule are not expressly mandated by law.

The Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104–4) requires Federal agencies to assess the effects of their regulatory actions on State local, and Tribal governments or the private sector. Agencies generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures of $100 million or more in any 1 year for State, local, or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates, as defined in Title II of UMRA, for State, local, and Tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, FSA submitted the QLA Program information collection request to OMB for emergency approval. OMB approved the 6-month emergency information collection.

E-Government Act Compliance

FSA is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Federal Assistance Programs

The titles and numbers of the Federal Domestic Assistance Program found in the Catalog of Federal Domestic Assistance to which this rule applies are:

10.129—Wildfire and Hurricanes Indemnity Program Plus
10.133—Quality Loss Adjustment Program

List of Subjects in 7 CFR Part 760

Dairy products, Indemnity payments, Reporting and recordkeeping requirements.

For the reasons discussed above, FSA amends 7 CFR part 760 as follows:

PART 760—INDEMNITY PAYMENT PROGRAMS

■ 1. Revise the authority citation for part 760 to read as follows:

Authority: 7 U.S.C. 4501 and 1531; 16 U.S.C. 3801, note; 19 U.S.C. 2497; Title III, Pub. L. 109–234, 120 Stat. 474; Title IX, Pub. L. 110–28, 121 Stat. 211; Sec. 748, Pub. L. 111–80, 123 Stat. 2131; Title I, Pub. L. 115–123, 132 Stat. 65; Title I, Pub. L. 116–20, 133 Stat. 871; and Division B, Title VII, Pub. L. 116–94, 133 Stat. 2658.

Subpart O—Agricultural Disaster Indemnity Programs

§ 760.1500 [Amended]

■ 2. In § 760.1500(c), remove the words ''and wildfires'' and add ''wildfires, excessive moisture, and qualifying drought'' in their place.

■ 3. Amend § 760.1502 as follows:

■ a. In the definition of ''Qualifying disaster event'', in paragraph (2) of remove the word ''wildfire'' and add ''wildfire, excessive moisture, qualifying drought'' in its place; and

■ b. Add the definitions of ''Qualifying drought'' and ''U.S. Drought Monitor'' in alphabetical order.

The additions read as follows:

§ 760.1502 Definitions.

* * * * *

Qualifying drought means an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year.

* * * * *

U.S. Drought Monitor is a system for classifying drought severity according to a range of abnormally dry to exceptional drought. It is a collaborative effort between Federal and academic partners, produced on a weekly basis, to synthesize multiple indices, outlooks, and drought impacts on a map and in narrative form. This synthesis of indices is reported by the National Drought Mitigation Center at *http://droughtmonitor.unl.edu.*

* * * * *

■ 4. In § 760.1503, add paragraph (j) to read as follows.

§ 760.1503 Eligibility.

* * * * *

(j) Members of cooperative processors are not eligible for WHIP+ assistance for sugar beet losses.

§ 760.1508 [Amended]

■ 5. Amend § 760.1508 as follows:

■ a. In paragraph (c), remove the cross reference ''paragraph (b)(1)'' and add the cross reference ''paragraph (b)'' in its place; and

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■ b. In paragraph (f), remove the cross reference ''paragraph (b)(1)'' and add cross reference ''paragraph (e)'' in its place.

§ 760.1510 [Amended]

■ 6. In § 760.1510(a), remove the words ''a date that will be announced by the Deputy Administrator'' and add ''October 30, 2020'' in their place.

§ 760.1511 [Amended]

■ 7. In § 760.1511(a)(6), remove the cross reference ''paragraph (f)'' and add cross reference ''paragraph (g)'' in its place.

■ 8. Add subpart R, consisting of §§ 760.1800 through 760.1814, to read as follows:

Subpart R—Quality Loss Adjustment Program

Sec.

760.1800 Applicability.
760.1801 Administration.
760.1802 Definitions.
760.1803 Participant eligibility.
760.1804 Eligibility of affected production.
760.1805 Qualifying disaster events.
760.1806 Ineligible losses.
760.1807 Miscellaneous provisions.
760.1808 General provisions.
760.1809 Payment and adjusted gross income limitation.
760.1810 Time and method of application.
760.1811 Required documentation and verification.
760.1812 Payment calculation.
760.1813 Availability of funds and timing of payments.
760.1814 Requirement to purchase crop insurance or NAP coverage.

§ 760.1800 Applicability.

This subpart specifies the terms and conditions for the Quality Loss Adjustment (QLA) Program. The QLA Program provides disaster assistance for crop quality losses that were a consequence of hurricanes, excessive moisture, floods, qualifying drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.

§ 760.1801 Administration.

(a) The QLA Program is administered under the general supervision of the Administrator, Farm Service Agency (FSA), and the Deputy Administrator for Farm Programs, FSA. The QLA Program is carried out by FSA State and county committees with instructions issued by the Deputy Administrator.

(b) FSA State and county committees, and representatives and their employees, do not have authority to modify or waive any of the provisions of the regulations in this subpart or instructions issued by the Deputy Administrator.

(c) The FSA State committee will take any action required by the regulations in this subpart that the FSA county committee has not taken. The FSA State committee will also:

(1) Correct, or require an FSA county committee to correct, any action taken by the FSA county committee that is not in accordance with the regulations in this subpart; or

(2) Require an FSA county committee to withhold taking any action that is not in accordance with this subpart.

(d) No delegation to an FSA State or county committee precludes the FSA Administrator or the Deputy Administrator from determining any question arising under this subpart or from reversing or modifying any determination made by an FSA State or county committee.

(e) The Deputy Administrator has the authority to:

(1) Permit State and county committees to waive or modify a non-statutory deadline specified in this subpart; and

(2) Delegate authority to FSA State or county committees to make determinations under § 760.1812(f) and (g).

(f) Items of general applicability to program participants, including, but not limited to, application periods, application deadlines, internal operating guidelines issued to FSA State and county offices, prices, and payment factors established under this subpart, are not subject to appeal in accordance with part 780 of this chapter.

§ 760.1802 Definitions.

The following definitions apply to this subpart. The definitions in §§ 718.2 and 1400.3 of this title also apply, except where they conflict with the definitions in this section. In the event of conflict, the definitions in this section apply.

Affected production means the producer's ownership share of harvested production of an eligible crop, adjusted to standard moisture as established by the U.S. Grains Standards Act, a State regulatory agency, or industry standard, that had both:

(1) A quality loss due to a qualifying disaster event; and

(2) At least a 5 percent quality loss due to all eligible disaster events.

Average market price means the average market price determined according to § 1437.12 of this title.

Coverage level means the percentage determined by multiplying the elected yield percentage under a crop insurance policy or NAP coverage by the elected price percentage.

Crop insurance means an insurance policy reinsured by FCIC under the provisions of the Federal Crop Insurance Act, as amended. It does not include private plans of insurance.

Crop insurance indemnity means, for the purpose of this subpart, the payment to a participant for crop losses covered under crop insurance administered by RMA in accordance with the Federal Crop Insurance Act (7 U.S.C. 1501–1524).

Crop year means:

(1) For insurable crops, the crop year as defined according to the applicable crop insurance policy; and

(2) For NAP-eligible crops, the crop year as defined in § 1437.3 of this title.

Eligible crop means a crop for which coverage was available either from FCIC under part 400 of this title, or through NAP under § 1437.4 of this title.

Eligible disaster event means a disaster event that is an eligible cause of loss specified in § 1437.10 of this title, excluding insect infestation.

FCIC means the Federal Crop Insurance Corporation, a wholly owned Government Corporation of USDA, administered by RMA.

FSA means the Farm Service Agency, an agency of USDA.

Grading factor means a factor that describes the physical condition or a feature that is evaluated to determine the quality of the production, such as broken kernels and low-test weight.

Good farming practices means the cultural practices generally recognized as compatible with agronomic and weather conditions and used for the crop to make normal progress toward maturity, as determined by FSA. These practices are:

(1) For conventional farming practices, those generally recognized by agricultural experts for the area, which could include one or more counties; or

(2) For organic farming practices, those generally recognized by the organic agricultural experts for the area or contained in the organic system plan that is in accordance with the National Organic Program specified in part 205 of this title.

Harvested means:

(1) For insurable crops, harvested as defined according to the applicable crop insurance policy;

(2) For NAP-eligible single harvest crops, that a crop has been removed from the field, either by hand or mechanically;

(3) For NAP-eligible crops with potential multiple harvests in 1 year or harvested over multiple years, that the producer has, by hand or mechanically, removed at least 1 mature crop from the field during the crop year; and

(4) For mechanically harvested NAP-eligible crops, that the crop has been

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removed from the field and placed in a truck or other conveyance, except hay is considered harvested when in the bale, whether removed from the field or not.

Insurable crop means an agricultural crop (excluding livestock) for which the producer on a farm is eligible to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501–1524).

Multiple market crop means a crop that is delivered to a single market but can have fresh and processed prices based on grading. For example, a producer may intend to sell all production of an apple crop as fresh production; however, based on grading of the crop at the market, the producer is compensated for some production at the fresh price and for some production at the processing price.

Multiple planting means the planting for harvest of the same crop in more than one planting period in a crop year on different acreage.

NAP means the Noninsured Crop Disaster Assistance Program under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) and part 1437 of this title.

NAP-eligible crop means an agricultural crop for which the producer on a farm is eligible to obtain NAP coverage.

NAP service fee means the amount specified in § 1437.7 of this title that the producer must pay to obtain NAP coverage.

Nutrient factor means a factor determined by a test that measures the nutrient value of a crop to be fed to livestock. Examples include, but are not limited to, relative feed value and total digestible nutrients.

Production means quantity of the crop produced, which is expressed in a specific unit of measure including, but not limited to, bushels or pounds.

QLA Program means the Quality Loss Adjustment Program.

Qualifying disaster event means a hurricane, flood, tornado, typhoon, volcanic activity, snowstorm, wildfire, excessive moisture, qualifying drought, or a related condition that occurred in the 2018 or 2019 calendar year.

Qualifying drought means an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year.

Quality loss means:

(1) For forage crops, a reduction in an applicable nutrient factor for the crop; and

(2) For crops other than forage, a reduction in the total dollar value of the crop due to reduction in the physical condition of the crop indicated by an applicable grading factor.

Related condition means damaging weather or an adverse natural occurrence that occurred as a direct result of a specified qualifying disaster event, such as excessive rain, high winds, flooding, mudslides, and heavy smoke, as determined by the Deputy Administrator. The term does not include insect infestation.

Reliable production record means evidence provided by the participant that is used to substantiate the amount of production reported when verifiable records are not available, including copies of receipts, ledgers of income, income statements of deposit slips, register tapes, invoices for custom harvesting, and records to verify production costs, contemporaneous measurements, truck scale tickets, and contemporaneous diaries that are determined acceptable by the FSA county committee. To determine whether the records are acceptable, the FSA county committee will consider whether they are consistent with the records of other producers of the crop in that area.

RMA means the Risk Management Agency, an agency of USDA.

Salvage value means the dollar amount or equivalent for the quantity of the commodity that cannot be marketed or sold in any recognized market for the crop.

Secondary use means the harvesting of a crop for a use other than the intended use.

Unit of measure means:

(1) For insurable crops, the FCIC-established unit of measure; and

(2) For NAP-eligible crops, the established unit of measure used for the NAP price and yield.

USDA means the U.S. Department of Agriculture.

U.S. Drought Monitor is a system for classifying drought severity according to a range of abnormally dry to exceptional drought. It is a collaborative effort between Federal and academic partners, produced on a weekly basis, to synthesize multiple indices, outlooks, and drought impacts on a map and in narrative form. This synthesis of indices is reported by the National Drought Mitigation Center at *http://droughtmonitor.unl.edu.*

Value loss crop has the meaning specified in subpart D of part 1437 of this title.

Verifiable documentation means evidence that can be verified by FSA through an independent source.

Verifiable percentage of loss is the percentage of loss determined by comparing the applicable nutrient factors for a producer's affected production of a forage crop with the average of such nutrient factors from the 3 preceding crop years, as documented on FSA–899, Historical Nutritional Value Weighted Average Worksheet.

WHIP+ means the Wildfires and Hurricanes Indemnity Program Plus under subpart O of this part.

§ 760.1803 Participant eligibility.

(a) Participants will be eligible to receive a payment under this subpart only if they incurred a loss to an eligible crop due to a qualifying disaster event, as further specified in this subpart.

(b) To be an eligible participant under this subpart, a person or legal entity must be a:

(1) Citizen of the United States;

(2) Resident alien; for purposes of this subpart, resident alien means ''lawful alien'' (see § 1400.3 of this title);

(3) Partnership consisting solely of citizens of the United States or resident aliens; or

(4) Corporation, limited liability company, or other similar organizational structure organized under State law consisting solely of citizens or resident aliens of the United States.

(c) If any person who would otherwise be eligible to receive a payment dies before the payment is received, payment may be released as specified in § 707.3 of this chapter. Similarly, if any person or legal entity who would otherwise have been eligible to apply for a payment dies or is dissolved, respectively, before the payment is applied for, payment may be released in accordance with this subpart if a timely application is filed by an authorized representative. Proof of authority to sign for the deceased producer or dissolved entity must be provided. If a participant is now a dissolved general partnership or joint venture, all members of the general partnership or joint venture at the time of dissolution or their duly authorized representatives must sign the application. Eligibility of such participant will be determined, as it is for other participants, based upon ownership share and risk in producing the crop.

(d) An ownership share is required to be eligible for a payment under this subpart. Growers growing eligible crops under contract for crop owners are not eligible for a payment under this subpart unless the grower is also determined to have an ownership share of the crop. Any verbal or written contract that precludes the grower from having an ownership share renders the

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grower ineligible for payments under this subpart.

(e) A person or legal entity is not eligible to receive assistance under this subpart if FSA determines that the person or legal entity:

(1) Adopted any scheme or other device that tends to defeat the purpose of this subpart or any of the regulations applicable to this subpart;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination under any or all of the following: This subpart and parts 12, 400, 1400, and 1437 of this title.

(f) A person who is ineligible for crop insurance or NAP under § 400.458 or § 1437.16 of this title, respectively, for any year is ineligible for payments under this subpart for the same year.

(g) The provisions of § 718.11 of this chapter, providing for ineligibility for payments for offenses involving controlled substances, apply.

(h) As a condition of eligibility to receive payments under this subpart, the participant must have been in compliance with the Highly Erodible Land Conservation and Wetland Conservation provisions of part 12 of this title for the applicable crop year for which the producer is applying for benefits under this subpart, and must not otherwise be precluded from receiving payments under part 12, 400, 1400, or 1437 of this title or any law.

§ 760.1804 Eligibility of affected production.

(a) To be eligible for the QLA Program, an eligible crop's affected production must have suffered a quality loss due to a qualifying disaster event and had at least a 5 percent quality loss due to all eligible disaster events. Whether affected production of a crop had a 5 percent loss will be determined separately for crops with different crop types, intended uses, certified organic or conventional status, county, and crop year.

(b) Affected production of the following is not eligible for the QLA Program:

(1) Crops that were not grown commercially;

(2) Crops that were intended for grazing or were grazed;

(3) Crops not intended for harvest;

(4) Volunteer crops;

(5) Value loss crops;

(6) Maple sap;

(7) Honey;

(8) By-products resulting from processing or harvesting a crop, such as, but not limited to, cotton seed, peanut shells, wheat or oat straw, or corn stalks or stovers;

(9) First-year seeding for forage production;

(10) Immature fruit crops;

(11) Crops for which FCIC coverage or NAP coverage is unavailable;

(12) Multiple market crops for which the producer previously received a crop insurance indemnity or WHIP+ payment for a quality loss;

(13) Crops for which production used to calculate a crop insurance indemnity or WHIP+ payment was adjusted based on a comparison of the producer's sale price to FCIC established price;

(14) Crops that received a crop insurance indemnity, NAP payment, or WHIP+ payment based on the quantity of production that was considered unmarketable;

(15) Crops for which the producer previously received a crop insurance indemnity, NAP payment, or WHIP+ payment for which production was reported as salvage value or secondary use;

(16) Sugar beets for which a member of a cooperative processor received a payment through a cooperative agreement; and

(17) Crops that were destroyed.

(c) Only affected production from initial crop acreage will be eligible for a QLA Program payment, unless the provisions for subsequent crops in this section are met. All plantings of an annual or biennial crop are considered the same as a planting of an initial crop in tropical regions as defined in part 1437, subpart F, of this title.

(d) In cases where there is double cropped acreage, affected production of each crop may be eligible only if the specific crops are approved by the FSA State committee as eligible double cropping practices in accordance with procedures approved by the Deputy Administrator.

(e) Participants having affected production from multiple plantings may receive payments for each planting only if the planting meets the requirements of part 1437 of this title and all other provisions of this subpart are satisfied.

§ 760.1805 Qualifying disaster events.

(a) A producer is eligible for payments under this subpart only if the producer's affected production of an eligible crop suffered a crop quality loss due to a qualifying disaster event.

(b) A crop quality loss due to a qualifying disaster event must have occurred on acreage that was physically located in a county that received a:

(1) Presidential Emergency Disaster Declaration authorizing public assistance for categories C through G or individual assistance due to a qualifying disaster event occurring in the 2018 or 2019 calendar years; or

(2) Secretarial Disaster Designation for a qualifying disaster event occurring in the 2018 or 2019 calendar years.

(c) A producer with a crop quality loss on acreage not physically located in a county that was eligible under paragraph (b) of this section will be eligible for the QLA Program for losses due to qualifying disaster events only if the producer provides supporting documentation from which the FSA county committee determines that the crop quality loss on the unit was reasonably related to a qualifying disaster event as specified in this subpart. Supporting documentation may include furnishing climatological data from a reputable source or other information substantiating the claim of loss due to a qualifying disaster event.

§ 760.1806 Ineligible losses.

(a) A loss is not eligible under this subpart if any of the following apply:

(1) The cause of loss is determined by FSA to be the result of poor management decisions, poor farming practices, or drifting herbicides;

(2) The loss could have been mitigated using good farming practices, including losses due to high moisture content that could be mitigated by following best practices for drying and storing the crop;

(3) The qualifying disaster event occurred after the crop was harvested;

(4) FSA or RMA have previously disapproved a notice of loss for the crop and disaster event, unless that notice of loss was disapproved solely because it was filed after the applicable deadline; or

(5) The cause of loss was due to:

(i) Conditions or events occurring outside of the applicable growing season for the crop;

(ii) Insect infestation;

(iii) Water contained or released by any governmental, public, or private dam or reservoir project if an easement exists on the acreage affected by the containment or release of the water;

(iv) Failure of a power supply or brownout; or

(v) Failure to harvest or market the crop due to lack of a sufficient plan or resources.

(b) [Reserved]

§ 760.1807 Miscellaneous provisions.

(a) All persons with a financial interest in a legal entity receiving payments under this subpart are jointly and severally liable for any refund, including related charges, that is determined to be due to FSA for any reason.

(b) In the event that any application under this subpart resulted from

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erroneous information or a miscalculation, the payment will be recalculated and any excess refunded to FSA with interest to be calculated from the date of the disbursement.

(c) Any payment to any participant under this subpart will be made without regard to questions of title under State law, and without regard to any claim or lien against the commodity, or proceeds, in favor of the owner or any other creditor except agencies of the U.S. Government. The regulations governing offsets and withholdings in part 3 of this chapter apply to payments made under this subpart.

(d) Any participant entitled to any payment may assign any payment(s) in accordance with regulations governing the assignment of payments in part 3 of this chapter.

(e) The regulations in parts 11 and 780 of this title apply to determinations under this subpart.

§ 760.1808 General provisions.

(a) Eligibility and payments under this subpart will be determined based on the county where the affected production was harvested.

(b) FSA county committees will make any necessary adjustments to the applicant's affected production and other information on the application form used to calculate a payment when the county committee determines:

(1) Additional documentation has been requested by FSA but has not been provided by the participant;

(2) The loss is due to an ineligible cause; or

(3) The participant has a contract providing a guaranteed payment for all or a portion of the crop.

(c) Unless otherwise specified, all eligibility provisions of part 1437 of this title also apply to tropical crops for eligibility under this subpart.

(d) FSA will use the most reliable data available at the time payments under this subpart are calculated. If additional data or information is provided or becomes available after a payment is issued, FSA will recalculate the payment amount and the producer must return any overpayment amount to FSA. In all cases, payments can only issue based on the payment formula for losses that affirmatively occurred.

(e) Production that is commingled between counties, crop years, or ineligible and eligible acres before it was a matter of record or combination of record and cannot be separated by using records or other means acceptable to FSA will be prorated to each respective year, county, or type of acreage, respectively.

§ 760.1809 Payment and adjusted gross income limitation.

(a) A person or legal entity, other than a joint venture or general partnership, is eligible to receive, directly or indirectly, payments of not more than $125,000 for each of the 2018, 2019, and 2020 crop years under this subpart.

(b) Payments made to a joint operation, including a joint venture or general partnership, cannot exceed the amount determined by multiplying the maximum payment amount specified in paragraph (a) of this section by the number of persons and legal entities, other than joint operations, that comprise the ownership of the joint operation.

(c) The direct attribution provisions in § 1400.105 of this title apply to payments under this subpart.

(d) The notification of interest provisions in § 1400.107 of this title apply to payments under this subpart.

(e) The provisions for recognizing persons added to a farming operation for payment limitation purposes as described in § 1400.104 of this title apply to payments under this subpart.

(f) The $900,000 average AGI limitation provisions in part 1400 of this title relating to limits on payments for persons or legal entities, excluding joint ventures and general partnerships, apply to each applicant for the QLA Program unless at least 75 percent of the person or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. A person's or legal entity's average AGI for each of the program years 2018, 2019 or 2020, is determined by using the average of the adjusted gross incomes for the 3 taxable years preceding the most immediately preceding taxable year. If the person's or legal entity's average AGI is below $900,000 or at least 75 percent of the person or legal entity's average AGI is derived from farming, ranching, or forestry-related activities, the person or legal entity, is eligible to receive payments under this subpart.

§ 760.1810 Time and method of application.

(a) A completed FSA–898, Quality Loss Adjustment (QLA) Program Application, must be submitted in person, by mail, email, or facsimile to any FSA county office by the close of business on March 5, 2020.

(b) An application submitted in accordance with paragraph (a) of this section is not considered valid and complete for issuance of payment under this subpart unless FSA determines all the applicable eligibility provisions have been satisfied and the producer has submitted all of following by March 19, 2020:

(1) Documentation required by § 760.1811;

(2) FSA–578, Report of Acreage, for all acreage for any crop for which payments under this subpart are requested;

(3) FSA–895, Crop Insurance and/or NAP Coverage Agreement; and

(4) For forage crops, FSA–899, Historical Nutritional Value Weighted Average Worksheet, if verifiable documentation of historical nutrient factors is available.

(c) In addition to the forms listed in paragraph (b) of this section, applicants must also submit all the following eligibility forms within 60 days from the date of signing the QLA Program application if not already on file with FSA:

(1) AD–1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation Certification;

(2) CCC–902 Automated, Farm Operating Plan for Payment Eligibility 2009 and Subsequent Program Years;

(3) CCC–941 Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information; and

(4) CCC–942 Certification of Income from Farming, Ranching and Forestry Operations, if applicable.

(d) Failure to submit all required forms by the applicable deadlines in paragraphs (b) and (c) of this section may result in no payment or a reduced payment.

(e) Application approval and payment by FSA does not relieve a participant from having to submit any form required, but not filed, according to this section.

(f) Once signed by a producer, the application is considered to contain information and certifications of and pertaining to the producer regardless of who entered the information on the application.

(g) The producer applying for payment under this subpart certifies the accuracy and truthfulness of the information provided in the application as well as any documentation filed with or in support of the application. All information is subject to verification or spot check by FSA at any time, either before or after payment is issued. Refusal to allow FSA or any agency of the USDA to verify any information provided will result in the participant's forfeiting eligibility for payment under this subpart. FSA may at any time, including before, during, or after processing and paying an application, require the producer to submit any additional information necessary to implement or determine any eligibility

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provision of this subpart. Furnishing information specified in this subpart is voluntary; however, FSA may choose not to act on the application or approve payment if the required information is not provided. Providing a false certification will result in ineligibility and can also be punishable by imprisonment, fines, and other penalties.

§ 760.1811 Required documentation and verification.

(a) If requested by FSA, an applicant must provide documentation that establishes the applicant's ownership share and value at risk in the crop.

(b) The applicant must provide acceptable documentation that is dated and contains all information required to substantiate the applicant's certification to the satisfaction of the FSA county committee. Verifiable documentation is required to substantiate the total dollar value loss and associated affected production, grading factors, and nutritional factors. FSA may verify the records with records on file at the warehouse, gin, or other entity that received or may have received the reported production. Reliable production records are required to substantiate the reported amount of affected production for applications not based on the total dollar value loss.

(c) To be considered acceptable, verifiable documentation for grain crops that were sold may come from any time between harvest and sale of the affected production, unless the FSA county committee determines the record is not representative of the condition within 30 days of harvest. For all other crops, the verifiable documentation must come from tests or analysis completed within 30 days of harvest, unless the FSA county committee determines that the record is representative of the condition of the affected production at time of harvest. Examples of acceptable records for purposes of this paragraph (c) include:

(1) Warehouse grading sheets;

(2) Settlement sheets;

(3) Sales receipts showing grade and price or disposition to secondary market due to quality; and

(4) Laboratory test results.

(d) For forage crops, producers must submit verifiable documentation showing the nutrient factors for the affected production. Producers must also submit verifiable documentation of the historical nutrient factors for the 3 preceding crop years if available. The nutrient factors that must be documented for a crop will determined by the FSA county committee based on the standard practice for the crop in that county.

(e) For all crops other than forage crops, producers must submit verifiable documentation of the total dollar value loss due to quality, if available, and verifiable documentation of grading factors due to quality.

(f) The participant is responsible for:

(1) Retaining, providing, and summarizing, at time of application and whenever required by FSA, the best available verifiable production records for the crop;

(2) Providing the information in a manner that can be easily understood by the FSA county committee; and

(3) Providing supporting documentation about the disaster event if the FSA county committee has reason to question the disaster event.

(e) Participants must provide all records for any production of a crop that is grown with an arrangement, agreement, or contract for guaranteed payment.

(f) Participants are required to retain documentation in support of their application for 3 years after the date of approval.

(g) Participants receiving QLA Program payments or any other person who furnishes such information to USDA must permit authorized representatives of USDA or the Government Accountability Office, during regular business hours, to enter the agricultural operation and to inspect, examine, and make copies of books, records, or other items for the purpose of confirming the accuracy of the information provided by the participant.

§ 760.1812 Payment calculation.

(a) Payments will be calculated separately for crops based on the crop type, intended use, certified organic or conventional status, county, and crop year.

(b) For forage crops with verifiable documentation of nutrient factors for the affected production and for the 3 preceding crop years, the payment will be equal to the producer's total affected production multiplied by the producer's verifiable percentage of loss, multiplied by the average market price, multiplied by 70 percent.

(c) For forage crops with verifiable documentation of nutrient factors for the affected production but not for the 3 preceding crop years, the payment will be equal to the producer's total affected production multiplied by the county average percentage of loss in paragraph (f) of this section, multiplied by the average market price, multiplied by 70 percent, multiplied by 50 percent.

(d) For crops other than forage with verifiable documentation of the total dollar value loss due to quality, the payment will be equal to the producer's total dollar value loss on the affected production, multiplied by 70 percent.

(e) For crops other than forage without verifiable documentation of the total dollar value loss but with verifiable documentation of grading factors, the payment will be equal to the producer's affected production multiplied by the county average loss per unit of measure in paragraph (g) of this section, multiplied by 70 percent, multiplied by 50 percent.

(f) The county average percentage of loss is the average percentage of loss from producers eligible for payment under paragraph (b) of this section if at least 5 producers in a county are eligible for payment for a crop under paragraph (b) of this section. If less than 5 producers in a county are eligible for payment for a crop under paragraph (b) of this section, the Deputy Administrator will:

(1) Determine a county average percentage of loss based on the best available data, including, but not limited to, evidence of losses in contiguous counties; or

(2) If a county average percentage of loss cannot be determined due to insufficient data, not issue payments to applicants under paragraph (c) of this section.

(g) The county average loss per unit of measure is based on the weighted average sales price from producers eligible for payment under paragraph (d) of this section if at least 5 producers in a county are eligible for payment for a crop under paragraph (d) of this section. If less than 5 producers are eligible for payment in a county under paragraph (d) of this section, the Deputy Administrator will:

(1) Determine a county average loss per unit of measure based on the best available data, including, but not limited to, evidence of losses in contiguous counties; or

(2) If a county average loss per unit of measure cannot be determined due to insufficient data, not issue payments to applicants under paragraph (e) of this section.

§ 760.1813 Availability of funds and timing of payments.

(a) Payments will be issued after the application period has ended and all applications have been reviewed by FSA.

(b) In the event that, within the limits of the funding made available by the Secretary, approval of eligible applications would result in payments

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in excess of the amount available, FSA will prorate payments by a national factor to reduce the payments to an amount that is less than available funds as determined by the Secretary.

(c) Applications and claims that are unpaid or prorated for any reason will not be carried forward for payment under other funds for later years or otherwise, but will be considered, as to any unpaid amount, void and nonpayable.

§ 760.1814 Requirement to purchase crop insurance or NAP coverage.

(a) For the first 2 consecutive crop years for which crop insurance or NAP coverage is available after the enrollment period for the QLA Program ends, a participant who receives payment under this subpart for a crop loss in a county must obtain:

(1) For an insurable crop, crop insurance with at least a 60 percent coverage level for that crop in that county; or

(2) For a NAP-eligible crop, NAP coverage with a coverage level of 60 percent.

(b) Participants who exceed the average adjusted gross income limitation for NAP payment eligibility [1] for the applicable crop year may meet the purchase requirement specified in paragraph (a)(2) of this section by purchasing Whole-Farm Revenue Protection crop insurance coverage, if eligible, or paying the NAP service fee and premium even though the participant will not be eligible to receive a NAP payment due to the average adjusted gross income limit.

(c) The final crop year to purchase crop insurance or NAP coverage to meet the requirements of paragraph (a) of this section is the 2023 crop year.

(d) A participant who obtained crop insurance or NAP coverage for the crop in accordance with the requirements for WHIP+ in § 760.1517 is considered to have met the requirement to purchase crop insurance or NAP coverage for the QLA Program.

(e) If a producer fails to obtain crop insurance or NAP coverage as required in this section, the producer must reimburse FSA for the full amount of QLA Program payment plus interest. A producer will only be considered to have obtained NAP coverage for the purposes of this section if the participant submitted a NAP application for coverage and paid the requisite NAP service fee and any applicable premium by the applicable deadline and completed all program requirements required under the coverage agreement, including filing an acreage report.

Richard Fordyce,

Administrator, Farm Service Agency.

[FR Doc. 2020–28914 Filed 1–5–21; 8:45 am]

BILLING CODE 3410–05–P

[1] See §§ 1400.500(a) and 1400.1(a)(4) of this title.

DEPARTMENT OF ENERGY

10 CFR Part 1061

RIN 1990–AA50

Procedures for the Issuance of Guidance Documents

AGENCY: Office of the General Counsel, Department of Energy.

ACTION: Final rule.

SUMMARY: The U.S. Department of Energy (DOE) publishes this final rule to establish procedures for the issuance of DOE guidance documents in accordance with Executive Order 13891. In this final rule, DOE establishes internal agency requirements for the contents of guidance documents, and procedures for providing notice of, and soliciting public comment on, certain guidance documents. This final rule also establishes procedures for the public to petition DOE to modify or withdraw guidance documents.

DATES: The effective date of this rule is February 5, 2021.

ADDRESSES: The docket for this rulemaking, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *https://www.regulations.gov*. All documents in the docket are listed in the *https://www.regulations.gov* index. However, not all documents listed in the index, such as those containing information that is exempt from public disclosure by law, may be publicly available. A link to the docket web page can be found at *https://www.regulations.gov/document?D=DOE-HQ-2020-0033-0001*. The docket web page explains how to access all documents, including public comments, in the docket.

FOR FURTHER INFORMATION CONTACT: Mr. Matthew Ring, U.S. Department of Energy, Office of the General Counsel, Forrestal Building, GC–33, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–2555, Email: *Guidance@hq.doe.gov*.

SUPPLEMENTARY INFORMATION:

I. Summary of Final Rule

In this final rule, DOE incorporates into the Code of Federal Regulations a new 10 CFR part 1061, which implements the requirements of Executive Order 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents.'' (84 FR 55235 (Oct. 15, 2019)) Among other things, Executive Order 13891 requires agencies to provide more transparency for their guidance documents by creating a searchable online database for current guidance documents,[1] and by establishing procedures to allow the public to comment on significant guidance documents and to petition the agency to withdraw or modify guidance documents.[2] Moreover, the Executive Order requires agencies to clearly state in their guidance documents that such guidance does not have the force and effect of law and is not legally binding, except as authorized by law or as incorporated into a contract. (84 FR 55235, 55237)

This final rule applies to all DOE guidance documents, as defined by Executive Order 13891, including the exceptions listed in section 2 of the Executive Order. This final rule also lists specific types of documents and communications that fall within the broader exceptions listed in the Executive Order (*e.g.,* speeches and presentations given by DOE officials, legal positions taken in litigation or enforcement actions). (See also OMB M–20–02, Guidance Implementing Executive Order 13891, Titled ''Promoting the Rule of Law Through Improved Agency Guidance Documents'' (Oct. 31, 2019), available at *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*). This final rule also adopts the same definition of ''significant guidance document'' as section 2 of Executive Order 13891.

In accordance with Executive Order 13891, this final rule requires that all DOE guidance documents clearly state that they do not have the force and effect of law and are not legally binding on the public, and that they are only intended to provide clarity to the public

[1] DOE's online database may be found at *energy.gov/guidance*.

[2] Executive Order 13891 defines ''significant guidance document'' as ''a guidance document that may reasonably be anticipated to: (i) Lead to an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (ii) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (iii) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (iv) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles of Executive Order 12866.'' (84 FR 55235, 55236)

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An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

Elizabeth K. Appel,

Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2021–00317 Filed 1–8–21; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–OIA–31249; PIN00IO14.XI0000]

U.S. Nominations to the World Heritage List; 15-Day Notice of Opportunity for Public Comment

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: This notice requests public comment on the next potential U.S. nominations from the U.S. World Heritage Tentative List (''Tentative List'') to the United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage List. The public may also make suggestions for future additions to the Tentative List. This notice complies with applicable World Heritage Program regulations.

DATES: Comments will be accepted on or before January 26, 2021.

ADDRESSES: You may submit comments by either of the following methods:

- *Mail to:* Jonathan Putnam, Office of International Affairs, National Park Service, 1849 C Street NW, Washington, DC 20240.
- *Email to: jonathan_putnam@nps.gov*. Phone: (202) 354–1809.

Comments will not be accepted in any way other than those specified above.

Information on the U.S. World Heritage program can be found at: *https://www.nps.gov/subjects/internationalcooperation/worldheritage.htm*.

To request a paper copy of the U.S Tentative List, please contact April Brooks, Office of International Affairs, National Park Service, 1849 C Street NW, Room 2415, Washington, DC 20240 (202) 354–1808, or Email: *april_brooks@nps.gov*.

FOR FURTHER INFORMATION CONTACT: Jonathan Putnam, (202) 354–1809.

For the World Heritage nomination format, see the World Heritage Centre website at: *http://whc.unesco.org/en/nominations*.

SUPPLEMENTARY INFORMATION:

Background

The World Heritage List is an international list of cultural and natural properties nominated by the signatories to the World Heritage Convention (1972), an international treaty for the preservation of natural and cultural heritage sites of global significance. U.S. participation and the roles of the Department of the Interior and the National Park Service are authorized by Title IV of the Historic Preservation Act Amendments of 1980 and conducted in accordance with 36 CFR part 73—World Heritage Convention. The National Park Service serves as the principal technical agency for the U.S. Government to the Convention.

A Tentative List is a national list of natural and cultural properties appearing to meet the World Heritage Committee eligibility criteria for nomination to the World Heritage List. It is a list of candidate sites which a country may consider for nomination within a given time period, but does not guarantee future nomination. The World Heritage Committee's *Operational Guidelines* ask participating nations to provide Tentative Lists, which aid in evaluating properties for the World Heritage List on a comparative international basis and help the Committee to schedule its work over the long term. A country cannot nominate a property unless it has been on its Tentative List for a minimum of a year. Countries also are limited at this time to nominating no more than one site in any given year.

Neither inclusion in the Tentative List nor inscription as a World Heritage Site imposes legal restrictions on owners or neighbors of sites, nor does it give the United Nations any management authority or ownership rights in U.S. World Heritage Sites, which continue to be subject to U.S. laws.

Current U.S. World Heritage Tentative List

The current U.S. World Heritage Tentative List includes the following properties:

Cultural Sites

Civil Rights Movement Sites, Alabama [other properties would be added for a complete nomination]

—Dexter Avenue King Memorial Baptist Church, Montgomery
—Bethel Baptist Church, Birmingham
—16th Street Baptist Church, Birmingham

Dayton Aviation Sites, Ohio

—Dayton Aviation Heritage National Historical Park

Hopewell Ceremonial Earthworks, Ohio

—Fort Ancient State Memorial, Warren County
—Hopewell Culture National Historical Park, near Chillicothe
—Newark Earthworks State Historic Site, Newark and Heath

Jefferson (Thomas) Buildings, Virginia (Proposed Jointly as an Extension to the World Heritage Listing of Monticello and the University of Virginia Historic District)

—Poplar Forest, Bedford County
—Virginia State Capitol, Richmond

Mount Vernon, Virginia

Serpent Mound, Ohio

Ellis Island, New Jersey and New York

Chicago Early Skyscrapers, Illinois, including: [Other Properties May Be Added in the Course of Developing a Nomination]

—Rookery
—Auditorium Building
—Monadnock Building
—Ludington Building
—Marquette Building
—Old Colony Building
—Schlesinger & Mayer (Carson, Pirie Scott) Department Store
—Second Leiter Building
—Fisher Building

Central Park, New York

Brooklyn Bridge, New York

Moravian Bethlehem District, Pennsylvania

Natural Sites

National Marine Sanctuary of American Samoa (Formerly Fagatele Bay National Marine Sanctuary, American Samoa)

Okefenokee National Wildlife Refuge, Georgia

Petrified Forest National Park, Arizona

White Sands National Monument, New Mexico

Marianas Trench National Monument, U.S. Territory, Commonwealth of the Northern Mariana Islands, Guam

Central California Current, California, Including

—Cordell Bank National Marine Sanctuary
—Monterey Bay National Marine Sanctuary
—Greater Farallones National Marine Sanctuary
—Farallon Islands National Wildlife Refuge

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—Point Reyes National Seashore
—Golden Gate National Recreation Area

Big Bend National Park, Texas

Pacific Remote Islands National Monument, U.S. Territorial Waters

Notes: (1) A nomination for the Hopewell Ceremonial Earthworks was authorized for preparation in May 2018 by the Department of the Interior and is now under development. (2) The Department has requested and is now awaiting advice from the International Council on Monuments and Sites (ICOMOS) on adding other properties to the proposal for the Civil Rights Movement Sites and its overall justification. (3) The government of the German state of Saxony is proposing an extension to the World Heritage listing of Christiansfeld, a Moravian Church Settlement in Denmark, that would include Herrnhut in Germany, the Moravian Bethlehem District in Bethlehem, Pennsylvania, and potentially other historic Moravian settlements in other countries.

Request for Public Comments

Comments on whether to authorize the preparation of a World Heritage nomination for any of the properties on the Tentative List should address the readiness and ability of the property owner(s) to prepare a satisfactory nomination document. Suggestions for additions to the Tentative List not previously submitted must address: (i) How the property(ies) would meet the World Heritage nomination criteria, requirements for authenticity, integrity, legal protection and management. Information on these criteria and requirements can be found on the website noted in the **FOR FURTHER INFORMATION CONTACT** section of this notice; and (ii) The U.S. legal prerequisites that include the agreement of all property owners to the nomination of their property, an official determination that the property is nationally significant (such as by designation as a National Historic or National Natural Landmark), and effective legal protection. All previous suggestions for the Tentative List made during previous comment periods or otherwise submitted since 2008, have been retained and considered and should not be resubmitted at this time.

Selection and Nomination

All public comments will be summarized and provided to Department of the Interior officials, who will obtain the advice of the Federal Interagency Panel for World Heritage before making any selection of properties for authorization to prepare a World Heritage nomination. The selection may include relevant factors, such as the likelihood of being able to complete a satisfactory nomination, and the fact that the United States is currently prohibited by law from providing any funding to UNESCO, including UNESCO and World Heritage member dues. Once authorized, the property owners may prepare a draft nomination.

The Department does not have a fixed schedule for completing or submitting World Heritage nominations. No more than one nomination from any country may be submitted per year, per the UNESCO World Heritage *Operational Guidelines.* Completed nominations, if approved by the Department for submission, may be submitted to the UNESCO World Heritage Centre by February 1 of any year.

Public Availability of Comments

All comments will be a matter of public record. Before including an address, phone number, email address, or other personal identifying information in a comment, members of the public should be aware that the entire comment—including personal identifying information—may be made public at any time. While commenters can request that personal identifying information be withheld from public review, it may not be possible to comply with this request.

Authority: 54 U.S.C. 307101; 36 CFR part 73.

George Wallace,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2021–00310 Filed 1–8–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#-31331; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before December 25, 2020, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by January 26, 2021.

ADDRESSES: Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line ''Public Comment on property or proposed district name, (County) State.'' If you have no access to email you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before December 25, 2020. Pursuant to Section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State or Tribal Historic Preservation Officers:

CALIFORNIA

Orange County

Johnson, Hugh Edgar, House, 444 W. Brookdale Pl., Fullerton, SG100006089

FLORIDA

Monroe County

Matecumbe Methodist Church Cemetery, 81801 Overseas Hwy., Islamorada, SG100006117

Pinellas County

House at 827 Mandalay Avenue, 827 Mandalay Ave., Clearwater, SG100006118

Sumter County

Wild Cow Prairie Cemetery, 5822 Cty. Rd. 673, Bushnell vicinity, SG100006119

Volusia County

Wright, James W., Building, 258 West Voorhis Ave., DeLand, SG100006120

Walton County

Herman Lodge No. 108 Free & Accepted Masons of Florida, 314 Madison St., Freeport, SG100006121

ILLINOIS

Cook County

Irving, James B., House, 2771 Crawford Ave., Evanston, SG100006102

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7910–00–685–6660—Pad, Machine, Scrubbing, Floor, 17″ x ¼″
7910–00–685–6671—Pad, Machine, Polishing, Floor, 15″ x ¼″
7910–00–685–6672—Pad, Machine, Polishing, Floor, 17″ x ¼″
7910–00–685–6686—Pad, Machine, Polishing, Floor, 12″ x ¼″
7910–00–685–6687—Pad, Machine, Polishing, Floor, 13″ x ¼″
7910–00–820–7989—Pad, Floor, Buffing, Nylon, Tan, 15″
7910–00–NIB–0006—Pad, Floor, Burnishing, Animal Hair, Gray, 17″
7910–00–NIB–0009—Pad, Floor, Burnishing, Animal Hair, Gray, 21″
7910–00–NIB–0016—Pad, Floor, Polishing, Animal Hair, Beige, 17″
7910–00–NIB–0029—Pad, Floor, Buffing, Polyester, Red, 14″
7910–00–NIB–0030—Pad, Floor, Buffing, Polyester, Red, 15″
7910–00–NIB–0034—Pad, Floor, Scrubbing, Polyester, Blue, 14″
7910–00–NIB–0040—Pad, Floor, Scrubbing, Polyester, Blue, 21″
7910–01–512–5933—Pad, Floor, Stripping, Polyester, Brown, 17″
7910–01–512–5937—Pad, Floor, Scrubbing, Polyester, Blue, 13″
7910–01–512–5950—Pad, Floor, Scrubbing, Polyester, Blue, 17″

Designated Source of Supply: Beacon Lighthouse, Inc., Wichita Falls, TX
Contracting Activity: GSA/FSS Greater Southwest ACQUISITI, Fort Worth, TX

Michael R. Jurkowski,

Deputy Director, Business & PL Operations.

[FR Doc. 2021–00151 Filed 1–7–21; 8:45 am]

BILLING CODE 6353–01–P

COUNCIL ON ENVIRONMENTAL QUALITY

Guidance Document Online Portal

AGENCY: Council on Environmental Quality.

ACTION: Notice of online portal for agency guidance documents.

SUMMARY: In accordance with Executive Order (E.O.) 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' dated October 9, 2019, and Office of Management and Budget (OMB) Memorandum M–20–02, dated October 31, 2019, the Council on Environmental Quality (CEQ) is providing notice of where the public may access CEQ guidance documents.

ADDRESSES: The portal may be found at *https://www.whitehouse.gov/ceq/resources/*.

FOR FURTHER INFORMATION CONTACT: Amy B. Coyle, Deputy General Counsel, Council on Environmental Quality, 730 Jackson Place NW, Washington, DC 20503, 202–395–5750, *amy.b.coyle@ceq.eop.gov*.

SUPPLEMENTARY INFORMATION: E.O. 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' [1] requires that each agency establish or maintain on its website a single, searchable, indexed database that contains or links to all agency guidance documents [2] in effect. In accordance with E.O. 13891 and OMB's implementing guidance, set forth in OMB Memorandum M–20–02,[3] CEQ has complied with this requirement through its website portal, which is available to the public at *whitehouse.gov/ceq/resources*.[4] As required by E.O. 13891, the website also reiterates that: (1) The contents of the guidance documents accessed through the portal lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract; and (2) these documents are intended only to provide clarity to the public regarding existing requirements under statutes and regulations administered by CEQ. Under the E.O., CEQ may not cite, use, or rely on any guidance document that is not posted on or linked to the website portal, except to establish historical facts.

CEQ will also include on its website portal a link to its final rule establishing CEQ's internal agency procedures for issuing guidance documents, required by section 4 of E.O. 13891. The final rule relating to CEQ's guidance document procedures is published elsewhere in this issue of the **Federal Register**.

Authority: 42 U.S.C. 4321–4347; 42 U.S.C. 4371–4375; and E.O. 13891, 84 FR 55235.

Mary B. Neumayr,

Chairman.

[FR Doc. 2020–28879 Filed 1–7–21; 8:45 am]

BILLING CODE 3125–F1–P

[1] 84 FR 55235 (Oct. 15, 2019).

[2] E.O. 13891 defines ''guidance document'' as ''an agency statement of general applicability, intended to have future effect on the behavior of regulated parties, that sets forth a policy on a statutory, regulatory, or technical issue, or an interpretation of a statute or regulation. . . .'' *Id.*

[3] OMB issued its guidance memorandum on October 31, 2019. *See* M–20–02, Guidance Implementing Executive Order 13891, Titled ''Promoting the Rule of Law Through Improved Agency Guidance Documents'' (Oct. 31, 2019), *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*.

[4] CEQ's website portal at *https://www.whitehouse.gov/ceq/resources/* includes links to CEQ guidance documents and resources, some of which are provided on nepa.gov (*https://www.energy.gov/nepa/ceq-guidance-documents*) and sustainability.gov (*https://www.sustainability.gov/resources.html*).

DEPARTMENT OF EDUCATION

[Docket No. ED–2020–SCC–0167]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before February 8, 2021.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Find this information collection request by selecting ''Department of Education'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox. Comments may also be sent to *ICDocketmgr@ed.gov*.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, (202) 377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note

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PART 220—[REMOVED]

■ Accordingly, for the reasons stated in the preamble and under the authority of 5 U.S.C. 301, the Corps removes 33 CFR part 220.

R.D. James,

Assistant Secretary of the Army (Civil Works).

[FR Doc. 2020–27908 Filed 1–7–21; 8:45 am]

BILLING CODE 3720–58–P

COUNCIL ON ENVIRONMENTAL QUALITY

40 CFR Part 1519

RIN 0331–AA04

Guidance Document Procedures

AGENCY: Council on Environmental Quality.

ACTION: Final rule.

SUMMARY: Pursuant to Executive Order (E.O.) 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' this final rule establishes the process that the Council on Environmental Quality (CEQ) will follow for issuing guidance documents. E.O. 13891 requires Federal agencies to finalize regulations or amend existing regulations to establish processes and procedures for issuing guidance documents.

DATES: This rule is effective January 8, 2021.

FOR FURTHER INFORMATION CONTACT: Amy B. Coyle, Deputy General Counsel, Council on Environmental Quality, 730 Jackson Place NW, Washington, DC 20503, (202) 395–5750, *amy.b.coyle@ceq.eop.gov*.

SUPPLEMENTARY INFORMATION:

On October 9, 2019, President Trump issued E.O. 13891,[1] which addresses the development, use, and public availability of agency guidance documents. It requires agencies to promulgate or update existing regulations setting forth their procedures for issuing guidance documents. In accordance with section 6 of E.O. 13891, on October 31, 2019, the Office of Management and Budget (OMB) issued memorandum M–20–02, ''Guidance Implementing Executive Order 13891, Titled 'Promoting the Rule of Law Through Improved Agency Guidance Documents' '' (OMB M–20–02)[2] to provide guidance and implement the Executive order. OMB M–20–02 provides agencies with additional instruction on how to implement E.O. 13891, including the required rulemaking.

I. Summary of Final Rule

In this final rule, CEQ adds a new part 1519 to the Code of Federal Regulations to set out its procedures for the development and issuance of guidance documents consistent with the direction and reflecting the policies described in E.O. 13891 and OMB M–20–02.

A. Section 1519.1, ''Purpose''

Section 1519.1, ''Purpose,'' states that the purpose of part 1519 is to implement E.O. 13891, and explains CEQ's process for developing and issuing guidance.

B. Section 1519.2, ''Guidance Document Procedures''

Section 1519.2, ''Guidance document procedures,'' defines ''guidance documents'' in paragraph (a) and describes documents that do not meet that definition in paragraph (b), consistent with section 2(b)[3] of the E.O. and Q2 of OMB M–20–02.

Paragraph (c) of § 1519.2 lists the minimum requirements for any document meeting the definition of a guidance document consistent with Q22 of OMB M–20–02, including a title, unique identification number, date, indication of whether it revises or replaces prior guidance, summaries, and legal citations. Additionally, consistent with section 4(i) of E.O. 13891, paragraph (c)(6) includes a requirement that each guidance document clearly state that it does not bind the public, except as authorized by law or as incorporated into a contract.

Paragraph (c)(11) of § 1519.2 specifies that any guidance document must be posted on CEQ's website. E.O. 13891 also directed Federal agencies to make guidance documents publicly available in an indexed, searchable database online. As described in the **Federal Register** notice published today, CEQ has complied with this requirement through its website *whitehouse.gov/ceq/resources*.[4] As noted on this website, CEQ may not cite, use, or rely on any guidance that is not posted on its web pages except to establish historical facts. CEQ also makes clear that CEQ's guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract.

Finally, paragraph (d) of § 1519.2 requires the CEQ Office of the General Counsel to review and clear all guidance documents before CEQ issues them.

C. Section 1519.3, ''Procedures for the Public To Request Withdrawal or Modification of a Guidance Document''

Consistent with section 4(ii) of E.O. 13891, § 1519.3, ''Procedures for the public to request withdrawal or modification of a guidance document,'' addresses the process for members of the public to petition CEQ to withdraw or modify a particular guidance document, including designation of the Office of the General Counsel as the office within CEQ to which the public should direct such petitions. CEQ intends to provide additional instructions on its guidance website, including appropriate contact information and format of the petitions.

D. Section 1519.4, ''Significant Guidance Documents''

Finally, § 1519.4, ''Significant guidance documents,'' addresses specific requirements for a subset of ''guidance documents'' that are ''significant guidance documents'' as defined by section 2(c) of E.O. 13891. Paragraph (a) sets forth that definition. OMB's Office of Information and Regulatory Affairs (OIRA) makes the final determination of whether a guidance document is significant. If OIRA makes such a determination for a particular guidance document, this section will also apply. Consistent with section 4(iii) of E.O. 13891, paragraph (b) sets forth procedural requirements, including public notice and comment for at least 30 days, unless an exception applies; public response to major concerns raised in comments; approval on a non-delegable basis by the Chairman, or an official acting as Chairman; review by OIRA under Executive Order 12866; and compliance with the applicable requirements for regulations or rules.

II. Rulemaking Analyses and Notices

A. Regulatory Procedures

Under the Administrative Procedure Act, an agency may waive notice and comment procedures if an action is an interpretative rule, a general statement of policy, or a rule of agency organization, procedure, or practice. *See* 5 U.S.C. 553(b)(A). This rule describes the internal process that CEQ will follow to comply with the requirements specified in E.O. 13891 when issuing guidance documents as defined by the

[1] 84 FR 55235 (Oct. 15, 2019).

[2] OMB M–20–02 is available at *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*.

[3] E.O. 13891 section 2(b) lists the following as exclusions to the definition of guidance document. 84 FR at 55235–36.

[4] CEQ's website, *whitehouse.gov/ceq/resources*, includes links to CEQ guidance documents and resources, some of which are provided on *nepa.gov* and *sustainability.gov*.

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E.O. Because this rule is one of agency organization, procedure, or practice, it is exempt from the requirement to provide prior notice and opportunity for public comment.

B. Regulatory Planning and Review (E.O. 12866 and E.O. 13563)

E.O. 12866 provides that OIRA will review all significant rules. E.O. 13563 reaffirms the principles of E.O. 12866, calling for improvements in the Federal government's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory objectives. OMB determined that this final rule does not meet the requirements for a significant regulatory action under E.O. 12866, as supplemented by E.O. 13563, and therefore it was not subject to review.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, as amended (RFA), 5 U.S.C. 601 *et seq.,* and E.O. 13272 do not apply to this rulemaking because it is not subject to the notice and comment requirements of 5 U.S.C. 553(b).

D. Unfunded Mandates Reform Act

A statement containing the information required by the Unfunded Mandates Reform Act, 2 U.S.C. 1531 *et seq.,* is not required. This rule will not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year, and it will not have a significant or unique effect on State, local, or Tribal governments, or the private sector.

E. Reducing Regulation and Controlling Regulatory Costs (E.O. 13771)

This rule is not an E.O. 13771 regulatory action because this rule is not significant under E.O. 12866.

F. Federalism (E.O. 13132)

Under the criteria in section 1 of E.O. 13132, this rule will not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement because it will not substantially and directly affect the relationship between the Federal and State governments.

G. National Environmental Policy Act

The purpose of this rulemaking is to formalize the CEQ's administrative procedures for issuing guidance documents, as required by E.O. 13891. CEQ has determined that the final rule is a non-major Federal action under the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.,* and would not have any effect on the environment because it merely outlines internal CEQ administrative procedures and does not authorize any activity or commit resources to a project that may affect the environment.

H. Paperwork Reduction Act

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This rule will not impose recordkeeping or reporting requirements on State, local, or Tribal governments, individuals, businesses, or organizations.

List of Subjects in 40 CFR Part 1519

Administrative practice and procedure, Guidance.

Mary B. Neumayr,
Chairman.

■ For the reasons stated in the preamble, the Council on Environmental Quality adds 40 CFR part 1519 as follows:

PART 1519—GUIDANCE DOCUMENTS

Sec.
1519.1 Purpose.
1519.2 Guidance document procedures.
1519.3 Procedures for the public to request withdrawal or modification of a guidance document.
1519.4 Significant guidance documents.

Authority: 42 U.S.C. 4321–4347; 42 U.S.C. 4371–4375; and E.O. 13891, 84 FR 55235.

§ 1519.1 Purpose.

(a) This part implements Executive Order 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' and reflects the policies described in that order. The provisions in this part address the Council on Environmental Quality's procedures for the development and issuance of agency guidance documents. This part explains what constitutes guidance documents, and sets forth the minimum requirements for guidance documents, the procedures to request withdrawal or modification of guidance documents, and the additional requirements and procedures for significant guidance documents.

(b) This part is intended to improve the internal management of the Council on Environmental Quality. It is not intended to and does not create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its agencies or other entities, its officers or employees, or any other person.

(c) If Executive Order 13891 or any provision thereof is rescinded or superseded, this part remains in effect.

§ 1519.2 Guidance document procedures.

(a) *Definition of guidance documents.* For purposes of this part, guidance documents are agency statements of general applicability, intended to have future effect on the behavior of regulated parties, that set forth a policy on a statutory, regulatory, or technical issue, or an interpretation of a statute or regulation.

(b) *Documents excluded from the definition of guidance documents.* Guidance documents do not include:

(1) Agency statements of specific, rather than general, applicability.

(2) Agency statements that do not set forth a policy on a statutory, regulatory, or technical issue or an interpretation of a statute or regulation.

(3) Legislative rules promulgated under 5 U.S.C. 553 (or similar statutory provisions), or exempt from rulemaking requirements under 5 U.S.C. 553(a).

(4) Rules of agency organization, procedure, or practice that are not anticipated to have substantial future effect on the behavior of regulated parties or the public.

(5) Decisions of agency adjudication.

(6) Documents or agency statements that are directed solely to the Council on Environmental Quality or other agencies (or personnel of such agencies) that are not anticipated to have substantial future effect on the behavior of regulated parties or the public.

(7) Legal briefs and other court filings.

(8) Legal advice or opinions from the Council on Environmental Quality's Office of the General Counsel.

(9) Categories of guidance documents made exempt from Executive Order 13891 by the Administrator of the Office of Management and Budget's Office of Information and Regulatory Affairs through memoranda issued pursuant to section 4(b) of Executive Order 13891.

(c) *Elements of guidance documents.* In general, each guidance document must:

(1) Provide the title of the guidance document;

(2) Provide a unique document identification number;

(3) Identify the Council on Environmental Quality and any office, as appropriate, issuing the guidance document;

(4) Include the date of issuance;

(5) Include the term ''guidance'';

(6) Include a disclaimer clarifying that it does not have the force and effect of law; is not meant to bind the public in any way; and is intended only to provide clarity to the public regarding

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existing requirements under the law or agency policies. When a guidance document is binding because the law authorizes binding guidance or because a contract incorporates the guidance, the Council on Environmental Quality must modify the disclaimer to reflect accordingly;

(7) If it is a revision to or a replacement of a previously issued guidance document, identify the guidance document that it revises or replaces;

(8) Include a short summary of the subject matter covered in the guidance document at the top of the document;

(9) Identify the activities to which and the persons to whom the guidance document applies;

(10) Include the citation to the statutory provision or regulation to which the guidance document applies or which it interprets; and

(11) Be posted on the Council on Environmental Quality's website.

(d) *Review and clearance.* The Office of the General Counsel must review and clear all proposed guidance documents before issuance.

§ 1519.3 Procedures for the public to request withdrawal or modification of a guidance document.

(a) Any member of the public may petition the Council on Environmental Quality to withdraw or modify a guidance document.

(b) The petitioner must submit the request for the withdrawal or modification of a guidance document in writing to the Office of the General Counsel. The petition must contain a statement of the reasons for the petition and any supporting documents to support the petitioner's request.

(c) Upon receipt of a petition for withdrawal or modification of a guidance document, the Office of the General Counsel will consult with the relevant offices and coordinate the response to the petition.

(d) The Council on Environmental Quality should respond to a petition in writing, including electronically, within 90 days of receipt of a petition. The response should state whether the petition is granted, granted in part and denied in part, denied, or provisionally denied for lack of adequate information. If the petition is provisionally denied for lack of adequate information, the response should indicate what additional information is necessary to adjudicate the petition. The Office of the General Counsel should respond to the petition in writing no later than 90 days after receipt of the necessary additional information. The response should state whether the petition is granted, granted in part and denied in part, or denied.

(e) The Council on Environmental Quality may consider in a coordinated manner or provide a coordinated response to similar petitions for withdrawal or modification.

(f) The Council on Environmental Quality need not respond to petitions under this part for withdrawal or modification of documents that do not meet the definition of a guidance document.

§ 1519.4 Significant guidance documents.

(a) *Significant guidance documents definition.* For the purposes of this section, significant guidance documents are guidance documents that may be reasonably anticipated to:

(1) Lead to an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles of Executive Order 12866.

(b) *Actions the Council on Environmental Quality will take before issuing significant guidance documents.* When the Office of Management and Budget's Office of Information and Regulatory Affairs determines that a guidance document is a significant guidance document, the Council on Environmental Quality must:

(1) Submit the guidance document for review by the Office of Information and Regulatory Affairs under Executive Order 12866;

(2) Publish the draft significant guidance document in the **Federal Register** for a public notice and comment period of at least 30 days;

(i) This provision will not apply if the Council on Environmental Quality for good cause finds that notice and public comment is impracticable, unnecessary, or contrary to the public interest.

(ii) If such a finding is made, the Council on Environmental Quality must incorporate such a finding and a brief statement of its reasoning into the significant guidance document.

(3) Obtain approval on a non-delegable basis from the Chairman or an official who is serving in an acting capacity as the Chairman.

(4) Provide a public response to major concerns raised in comments on the draft significant guidance document.

(5) Announce the availability of the final significant guidance document.

(6) Comply with the applicable requirements for regulations or rules, including significant regulatory actions, set forth in Executive Orders 12866, ''Regulatory Planning and Review,'' 13563, ''Improving Regulation and Regulatory Review,'' 13609, ''Promoting International Regulatory Cooperation,'' 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' and 13777, ''Enforcing the Regulatory Reform Agenda.''

(c) *Exemption.* This section will not apply if the Chairman or an official who is serving in an acting capacity as the Chairman of the Council on Environmental Quality and the Administrator of the Office of Information and Regulatory Affairs agree that exigency, safety, health, or other compelling cause warrants an exemption from some or all requirements.

[FR Doc. 2020–28881 Filed 1–7–21; 8:45 am]

BILLING CODE 3225–F1–P

FEDERAL PERMITTING IMPROVEMENT STEERING COUNCIL

40 CFR Chapter IX

[Agency Docket Number 2020–001]

RIN 3121–AA01

Adding Mining as a Sector of Projects Eligible for Coverage Under Title 41 of the Fixing America's Surface Transportation Act

AGENCY: Federal Permitting Improvement Steering Council.

ACTION: Final rule.

SUMMARY: The Federal Permitting Improvement Steering Council (Permitting Council) has voted to add mining as a sector with infrastructure projects eligible for coverage under Title 41 of the Fixing America's Surface Transportation Act (FAST–41). A new part will be included in the Code of Federal Regulations that adds mining to the list of statutory FAST–41 sectors. The addition of mining as a FAST–41 sector will allow qualified mining infrastructure projects to become FAST–41 covered projects. FAST–41 coverage will help Federal agencies coordinate their environmental and project review efforts to improve the timeliness, efficiency, predictability, and transparency of the decision-making processes associated with covered

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Rules and Regulations

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Wednesday, January 6, 2021

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 760

[Docket ID: FSA–2020–0011]

RIN 0560–AI55

Agricultural Disaster Indemnity Programs

AGENCY: Farm Service Agency (FSA), Department of Agriculture (USDA).

ACTION: Final rule.

SUMMARY: This rule establishes the Quality Loss Adjustment (QLA) Program to provide assistance to producers who suffered eligible crop quality losses due to hurricanes, excessive moisture, floods, drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. It also amends the provisions for the Wildfire and Hurricane Indemnity Program Plus (WHIP+) to be consistent with the Further Consolidated Appropriations Act, 2020, by adding excessive moisture and drought occurring in 2018 and 2019 as qualifying disaster events and clarifying eligibility of sugar beets. The changes to WHIP+ were self-enacting and were previously implemented by FSA.

DATES:

Effective date: January 6, 2021.

Comment due date: Comments are due by March 8, 2021.

ADDRESSES: We invite you to submit comments on this rule. You may submit comments by either of the following methods, although FSA prefers that you submit comments electronically through the Federal eRulemaking Portal:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and search for Docket ID FSA–2020–0011. Follow the instructions for submitting comments.
- *Mail:* Director, SND, FSA, U.S. Department of Agriculture, 1400 Independence Avenue SW, Stop 0522, Washington, DC 20250–0522. In your comment, specify the docket ID FSA–2020–0011.

Comments will be available for viewing online at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Kimberly Graham at (202) 720–6825 (voice); or by email at: *kimberly.graham@usda.gov*. Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice).

SUPPLEMENTARY INFORMATION:

Background

The Additional Supplemental Appropriations for Disaster Relief Act, 2019 (''Disaster Relief Act,'' Pub. L. 116–20) provided disaster assistance for necessary expenses related to losses of crops (including milk, on-farm stored commodities, crops prevented from planting in 2019, and harvested adulterated wine grapes), trees, bushes, and vines, as a consequence of hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. The Further Consolidated Appropriations Act, 2020 (Pub. L. 116–94), makes several changes to the provisions of the Disaster Relief Act, including:

- Specifying that assistance would be provided for crop quality losses;
- Adding excessive moisture as a qualifying disaster event;
- Adding drought as a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year; and
- Providing that sugar beet losses in 2018 and 2019 would be paid through cooperative processors (to be paid to producer members as determined by such processors).

This rule implements those provisions of the Further Consolidated Appropriations Act, 2020, by establishing the QLA Program to provide assistance for crop quality losses and amending the WHIP+ regulations to be consistent with the changes to qualifying disaster events and eligibility of sugar beet losses.

QLA Program

This rule establishes the QLA Program to provide disaster assistance for crop quality losses that were a consequence of hurricanes, excessive moisture, floods, qualifying drought, tornadoes, typhoons, volcanic activity, snowstorms, or wildfires occurring in calendar years 2018 and 2019. Eligible crops generally include crops for which FCIC crop insurance coverage or Noninsured Crop Disaster Assistance Program (NAP) coverage is available; however, value loss crops,[1] honey, and maple sap are not eligible. The QLA Program provides assistance for losses to crops that were sold or fed to livestock or are in storage; crops that were destroyed are not eligible. Assistance will be based on a producer's harvested affected production of an eligible crop that had a quality loss due to a qualifying disaster event and had at least a 5 percent quality loss due to all eligible disaster events.

Qualifying disaster events include hurricanes, floods, tornados, typhoons, volcanic activity, snowstorms, wildfires, excessive moisture, qualifying drought, and related conditions that occurred in the 2018 or 2019 calendar year. Assistance is available for eligible producers in counties that received a qualifying Presidential Emergency Disaster Declaration (declaration) or Secretarial Disaster Designation (designation) due to one or more of the qualifying disaster events or a related condition. As required by the Further Consolidated Appropriations Act, 2020, drought is only a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year (referred to as ''qualifying drought'' in this rule). Only producers in those counties that received a disaster declaration or designation qualify for the QLA Program based on the declaration or designation. Producers in counties that did not receive a qualifying declaration or designation may still apply; however, they must also provide supporting documentation to establish that the crop was directly affected by a qualifying disaster event and suffered the same

[1] Value loss crops include aquaculture, floriculture, mushrooms, ginseng root, ornamental nursery, sea grass and sea oats, Christmas trees, and turfgrass sod.

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minimum loss as required by a crop in a disaster declared or designated county. Lists of counties with Presidential Emergency Disaster Declarations and Secretarial Disaster Designations for all qualifying disaster events for 2018 and 2019 are available at *farmers.gov/quality-loss.*

FSA recognizes that a crop may suffer quality losses due to multiple disaster events in a single crop year, and the portion of a crop's quality loss that can be attributed to a specific disaster event may be difficult to determine. Therefore, while a qualifying disaster event must have caused at least a portion of the affected production's quality loss, FSA will consider the total quality loss caused by all eligible disaster events for eligibility and payment calculation purposes. Eligible disaster events for the QLA Program include those listed for NAP in 7 CFR 1437.10, except that the QLA Program does not cover losses due to insect infestation.

The QLA Program does not cover losses due to disaster events occurring after a crop was harvested or due to crop deterioration while in storage. Quality losses that could have been mitigated using good farming practices are not eligible. For example, if a producer's corn crop received a quality discount due to high moisture content, the producer could have mitigated that quality loss by using best practices for drying and storing the crop; therefore, that producer's quality loss due to high moisture is not eligible. The QLA Program does not provide assistance for losses that cannot be determined to have occurred or for losses for which a notice of loss was previously disapproved by FSA, RMA, or an approved insurance provider selling and servicing Federal crop insurance policies unless that notice of loss was disapproved solely because it was filed after the applicable deadline.

The QLA Program does not provide assistance for certain quality losses that were already compensated under a Federal crop insurance plan, NAP, or WHIP+. This includes losses to affected production of:

- Multiple market crops already compensated under crop insurance or WHIP+;
- Crops for which production used to calculate a crop insurance indemnity or WHIP+ payment was adjusted based on a comparison of the producer's sale price to the FCIC established price;
- Crops that received a crop insurance indemnity, NAP payment, or WHIP+ payment based on the quantity of production that was considered unmarketable; and
- Crops for which production was reported as salvage value or secondary use.

The QLA Program also excludes quality losses to sugar beets that were compensated through cooperative agreements with cooperative processors.

Affected production of a subsequent crop grown on double cropped acreage is only eligible if the crop has been approved as an eligible double cropping practice by the FSA State committee.

Application

FSA will accept QLA Program applications from January 6, 2021, through March 5, 2021. To apply, producers must submit a completed QLA Program application either in person, by mail, email, or facsimile to an FSA county office. To be eligible, a producer must submit a complete application, which includes all of the following:

- FSA–898, Quality Loss Adjustment (QLA) Program Application;
- FSA–899, Historical Nutritional Value Weighted Average Worksheet (only for forage crops with verifiable documentation of historical nutrient factors from the 3 preceding crop years);
- FSA–578, Report of Acreage;
- FSA–895, Crop Insurance and/or NAP Coverage Agreement; and
- Required documentation, as discussed below.

The FSA–578, FSA–895, and FSA–899 forms, and other required documentation must be submitted to the producer's county office by March 19, 2021.

If not already on file with FSA, producers must also submit the following eligibility forms for each crop year within 60 days of the date the producer signs the application:

- AD–1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification;
- CCC–902, Farm Operating Plan for Payment Eligibility;
- CCC–941 Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information; and
- CCC–942 Certification of Income from Farming, Ranching and Forestry Operations, if applicable.

Payments will not be made until all necessary eligibility documentation is received. Failure of an applicant to submit documentation timely may result in FSA not issuing a payment or, in the case of legal entities, a reduced payment if the required documentation for one or more members of the entity is not submitted timely.

Required Documentation

To support their applications, producers must submit documentation showing the quality loss and quantity of affected production by March 19, 2021. Documentation of the quality loss (total dollar value loss, grading factors, and nutrient factors, as applicable), must be verifiable. Verifiable documentation is documentation that can be verified by FSA through an independent source; FSA may verify the submitted records with records on file at the warehouse, gin, laboratory, or other entity that received or tested the reported production. Examples of acceptable, verifiable documentation include warehouse grading sheets, settlement sheets, sales receipts, and laboratory test results. Except for grain crops that have been sold, the documentation must be from laboratory tests or analysis completed within 30 days of harvest to be considered acceptable, unless the FSA county committee determines that the record is representative of the condition of the affected production within 30 days of harvest. For grain crops that were sold, the verifiable documentation can be from any time from harvest through the time of sale, unless the FSA county committee determines the record is not representative of the condition within 30 days of harvest. Producers who do not have acceptable, verifiable documentation are ineligible for the QLA Program.

For forage crops, all producers must submit verifiable documentation showing the nutrient factors for the affected production of the crop. Producers must also submit verifiable documentation of the historical nutrient factors for the 3 preceding crop years if available. The type of nutrient factors (such as relative feed value or total digestible nutrients) that must be documented for a particular crop will be determined by the FSA county committee based on the standard practice for the crop in that county. For all crops other than forage crops, producers must submit verifiable documentation of the total dollar value loss due to quality, if available, and verifiable documentation of grading factors due to quality.

Documentation to support the quantity of affected production included on the application must be verifiable for non-forage crops that receive a QLA payment based on the producer's total dollar value loss. For all other crops (non-forage crops without a producer's total dollar value loss and all forage crops), records to support the quantity of affected production must be reliable. Reliable production records means evidence provided by the participant that is used to substantiate the amount of production reported when verifiable

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records are not available, including copies of receipts, ledgers of income, income statements of deposit slips, register tapes, invoices for custom harvesting, and records to verify production costs, contemporaneous measurements, truck scale tickets, and contemporaneous diaries that are determined acceptable by the FSA county committee. To determine whether the records are acceptable, the FSA county committee will consider whether they are consistent with the records of other producers of the crop in that area.

Payment Calculation

QLA Program payments will be calculated using different formulas based on the type of crop (forage or non-forage) and based on the type of documentation submitted. All QLA payments, regardless of whether they are forage or non-forage, and the type of documentation submitted, will be calculated using a 70 percent payment factor. Payments calculated based on a county average loss, as described below, will be subject to an additional payment factor of 50 percent.

For forage crops with verifiable documentation of both the nutrient factors for the affected production and historical nutrient factors for the 3 preceding crop years, payment will be equal to the amount of the producer's total affected production multiplied by the producer's verifiable percentage of loss, multiplied by the average market price determined by FSA, multiplied by 70 percent. The producer's verifiable percentage of loss is determined by comparing the nutrient factor test results for the affected production to the average from the 3 preceding crop years, as documented on the FSA–899, Historical Nutritional Value Weighted Average Worksheet. The average market price for the QLA Program is the price used for NAP established according to 7 CFR 1437.12.

For forage crops with verifiable documentation of nutrient factors for the affected production but without historical nutrient factors for the 3 preceding crop years, the payment will be equal to the amount of the producer's total affected production multiplied by the county average percentage of loss, multiplied by the average market price determined by FSA, multiplied by 70 percent, multiplied by 50 percent.

For affected production of non-forage crops with verifiable documentation of the total dollar value loss due to quality, the QLA Program payment is equal to the producer's total dollar value loss on the affected production of the crop, multiplied by a payment factor of 70 percent.

For non-forage crops without verifiable documentation of a total dollar value loss but with verifiable documentation of grading factors due to quality, the payment will be equal to the amount of producer's affected production multiplied by the county average loss per unit of measure, multiplied by 70 percent, multiplied by 50 percent.

To determine the county average percentage of loss (for forage crops) or the county average loss per unit of measure (for non-forage crops), FSA will calculate the average loss for a crop based on losses of producers applying with verifiable documentation of historical nutritional factors (for forage crops) or the total dollar value loss (for non-forage crops) if at least 5 eligible producers submitted that documentation in the county. If less than 5 eligible producers in a county submit verifiable documentation of their historical nutritional factors or their total dollar value loss, FSA will determine a county average percentage of loss or county average loss per unit of measure based on the best available data, including losses of other QLA Program participants in contiguous counties. If sufficient data is still not available after considering other sources, FSA may determine that a county average cannot be calculated and producers in that county applying for payment under the applicable calculation are ineligible.

Payments for the QLA Program will not be issued until the application period has ended in order to allow FSA to determine the county average losses, as well as the total payments requested under the QLA Program. The Further Consolidated Appropriations Act, 2020 provides funding for the QLA Program to be available until December 31, 2021, in an amount equal to the remaining funds provided under the Bipartisan Budget Act of 2018 (Pub. L. 115–123) for losses due to Hurricanes Harvey, Irma, Maria, and other hurricanes and wildfires occurring in calendar year 2017,[2] and remaining funds provided under the Disaster Relief Act for losses due to Hurricanes Michael and Florence, other hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.[3] If the total amount of calculated QLA Program payments exceeds the amount of funding available, FSA will prorate all payments by a national factor.

A person or legal entity, other than a joint venture or general partnership, is eligible to receive, directly or indirectly, up to $125,000 per crop year in QLA Program payments. FSA will use the notification of interest provisions in 7 CFR 1400.107 and payment attribution provisions in 7 CFR 1400.105 for attributing and limiting payments to persons and legal entities. FSA will also use provisions in 7 CFR 1400.104 when changes in a farming operation result in an increase in persons to which payment limitation applies. Payments made to a joint operation (including a general partnership or joint venture) cannot exceed $250,000 per person or legal entity that comprise the ownership of the joint operation. Payments made to a legal entity will be reduced proportionately by an amount that represents the direct or indirect ownership in the legal entity by any person or legal entity that has otherwise reached the maximum payment limitation. These rules for attributing and limiting payments are consistent with the programs FSA administers on behalf of the Commodity Credit Corporation.

A person or legal entity, other than a joint venture or general partnership, is ineligible for a 2018, 2019, or 2020 payment if the person's or legal entity's average adjusted gross income (AGI) is more than $900,000, unless at least 75 percent of that person's or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. The average AGI for each of the program years 2018, 2019, or 2020, is determined using the average of the adjusted gross incomes for the 3 taxable years preceding the most immediately preceding taxable year. For example, for the 2019 program year, the producer's AGI would be based on the 2015, 2016, and 2017 tax years. If at least 75 percent of the person's or legal entity's AGI is derived from farming, ranching, or forestry-related activities and the participant provides the required certification and documentation, the person or legal entity is eligible to

[2] FSA provided assistance for losses due to Hurricanes Harvey, Irma, Maria, and other hurricanes and wildfires occurring in calendar year 2017 through the 2017 Wildfires and Hurricanes Indemnity Program (2017 WHIP) (final rule published July 18, 2018, 83 FR 33795–33809) and the Florida Citrus Recovery Grant Program.

[3] FSA has previously provided assistance for losses due to Hurricanes Michael and Florence, other hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019 through the Wildfires and Hurricanes Indemnity Program Plus (WHIP+), On-Farm Storage Loss Program, and Milk Loss Program (final rule published September 13, 2019, 84 FR 48518–48537), as well as through several grants and cooperative agreements with sugar beet cooperatives.

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receive QLA Program payments up to the applicable payment limitation noted above. With respect to joint ventures and general partnerships, this AGI provision will be applied to each member of the joint venture and general partnership.

Requirement to Purchase Crop Insurance or NAP Coverage

The Disaster Relief Act requires all participants who receive QLA Program payments to purchase crop insurance or NAP coverage for the next 2 available crop years. The latest year for meeting compliance with this provision will be the 2023 crop year. In other words, if the 2 consecutive years of coverage are not met by 2023 coverage year, the participant is ineligible for and must refund QLP Program payments. Participants must obtain crop insurance or NAP, as may be applicable, at the 60 percent coverage level or higher. In situations where crop insurance is unavailable for a crop, the Disaster Relief Act requires that a QLA Program participant obtain NAP coverage. Section 1001D of the Food Security Act of 1985 (1985 Farm Bill) provides that a person or entity with AGI in amount greater than $900,000 is not eligible to participate in NAP; however, producers with an AGI greater than $900,000 may be eligible for the QLA Program if at least 75 percent of that person's or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. Accordingly, in order to reconcile this restriction in the 1985 Farm Bill and the Disaster Relief Act's requirement to obtain NAP or crop insurance coverage, QLA Program participants may meet the Disaster Relief Act's purchase requirement by purchasing Whole-Farm Revenue Protection crop insurance coverage, if eligible, or they may pay the applicable NAP service fee and premium for the 60 percent coverage level despite their ineligibility for a NAP payment. In other words, the service fee and premium must be paid even though no NAP payment may be made because the AGI of the person or entity exceeds the 1985 Farm Bill limitation.

The crop insurance and NAP coverage requirements are specific to the crop and county (county where the crop is physically located for insurance and administrative county for NAP) for which QLA Program payments are paid. This means that a producer is required to purchase crop insurance or NAP coverage for the crop in the county for which the producer was issued a QLA Program payment. Producers who receive a payment on a crop in a county and who have the crop or crop acreage in subsequent years, as provided in this rule, and who fail to obtain the 2 years of crop insurance or NAP coverage must refund all QLA Program payments for that crop in that county with interest from the date of disbursement. This is a condition of payment eligibility specified by Disaster Relief Act and is therefore not subject to partial payment eligibility or other types of equitable relief. Producers who were paid under the QLA Program for a crop in a county but do not plant that crop in a subsequent year are not subject to the crop insurance or NAP purchase requirement. WHIP+ participants who already met the requirement to purchase crop insurance or NAP coverage as specified in 7 CFR 760.1517 are considered to have also met the requirement to purchase crop insurance or NAP coverage for QLA Program purposes, and they are not required to obtain additional years of crop insurance or NAP coverage as a result of also receiving a QLA Program payment for that crop.

Applicable general eligibility requirements, including recordkeeping requirements and required compliance with HELC and Wetland Conservation provisions, are similar to those for the previous ad hoc crop disaster programs and current permanent disaster programs. All information provided to FSA for program eligibility and payment calculation purposes, including production records, is subject to spot check.

WHIP+

FSA, on behalf of the Secretary of Agriculture, previously implemented provisions of the Disaster Relief Act by establishing WHIP+ through a final rule published on September 19, 2019 (84 FR 48518–48537). The Disaster Relief Act provided assistance for losses of crops, trees, bushes, and vines, as a consequence of hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. WHIP+ covers only production losses of crops except in specific circumstances discussed previously in this document when the producer may have also been compensated for quality losses.

This rule amends 7 CFR 760.1500(c) and the definition of ''qualifying disaster event'' in § 760.1502 to include excessive moisture and qualifying drought. As under the QLA Program, drought is only considered a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year. This rule adds definitions of ''qualifying drought'' and ''U.S. Drought Monitor'' in § 760.1502.

The addition of these qualifying disaster events for WHIP+ was self-enacting as the text in the law clearly specified the required changes without need for interpretation; therefore, FSA began the sign-up period for losses due to excessive moisture and qualifying drought on March 23, 2020, and sign-up ended on October 30, 2020. Producers applying for WHIP+ assistance for losses due to excessive moisture or qualifying drought were required to meet all requirements in 7 CFR part 760, subpart O, including the requirement to purchase crop insurance for 2 years as specified in § 760.1517.

The Further Consolidated Appropriations Act, 2020 also directed the Secretary to pay sugar beet losses in 2018 and 2019 through cooperative processors. FSA has established cooperative agreements with sugar beet processors; those processors will be responsible for distributing assistance to their members. This rule amends the eligibility provisions in § 760.1517 to specify that members of cooperatives are not eligible for a WHIP+ payment for sugar beet losses.

FSA is also updating § 760.1510(a) to reflect the application deadline of October 30, 2020, and correcting references in §§ 760.1508(c) and (f) and 760.1511(a)(6).

Notice and Comment and Effective Date

The Administrative Procedure Act (5 U.S.C. 553) provides that the notice and comment and 30-day delay in the effective date provisions do not apply when the rule involves a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts. This rule involves programs for payments to certain agricultural commodity producers and therefore falls within that exemption. Due to the nature of the rule and the need to implement the regulations expeditiously to provide assistance to agricultural producers, FSA finds that notice and public procedure are contrary to the public interest. Therefore, even though this rule is a major rule for purposes of the Congressional Review Act, FSA is not required to delay the effective date for 60 days from the date of publication to allow for Congressional review. Therefore, this rule is effective upon publication in the **Federal Register**.

Executive Orders 12866, 13563, 13771 and 13777

Executive Order 12866, ''Regulatory Planning and Review,'' and Executive

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Order 13563, ''Improving Regulation and Regulatory Review,'' direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13777, ''Enforcing the Regulatory Reform Agenda,'' established a Federal policy to alleviate unnecessary regulatory burdens on the American people.

The Office of Management and Budget (OMB) designated this rule as economically significant under Executive Order 12866, and therefore, OMB has reviewed this rule. The costs and benefits of this rule are summarized below. The full cost benefit analysis is available on *regulations.gov.*

Executive Order 13771, titled Reducing Regulation and Controlling Regulatory Costs, was issued on January 30, 2017. The OMB guidance in M–17–21, dated April 5, 2017, specifies that ''transfers'' are not covered by Executive Order 13771 but that requirements imposed apart from transfers in transfer rules may qualify as costs or cost savings under Executive Order 13771, for example the information collection requirements in this rule. This rule is not subject to the requirements of E.O. 13771 because this rule results in no more than de minimis costs.

Cost Benefit Analysis Summary

WHIP+ initially provided approximately $3 billion in supplemental assistance to producers for qualifying agricultural production losses. In the Further Consolidated Appropriations Act, 2020, Congress changed provisions of the Disaster Relief Act as follows:

1. Extended eligibility under WHIP+ to also cover [4]—

a. Crop production losses due to excessive moisture in calendar years 2018 and 2019;

b. Crop production losses due to drought in calendar years 2018 and 2019 if the area within the county in which the loss occurred was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year;

2. Provided assistance for sugar beet losses in 2018 and 2019 to be paid through cooperative processors; [5] and

3. Authorized assistance for crop quality losses that occurred in calendar years 2018 and 2019 through the QLA Program (implemented by this rule).

Eligible crops under the QLA Program include crops for which Federal crop insurance or NAP coverage is available. To be eligible for the QLA Program, a crop must have suffered a quality loss due to a qualifying disaster event and had at least a 5 percent quality discount due to a combination of the qualifying disaster event and any other QLA-eligible causes of loss. Eligible crops may have been sold, fed on farm to livestock, or been in storage at the time of application.

USDA estimates the Further Consolidated Appropriations Act, 2020 will provide approximately $950 million for the continuation of disaster assistance program delivery, including payments to eligible producers for production losses due to excessive moisture and extreme drought under WHIP+ and for quality losses covered by the QLA Program. Of that amount, USDA anticipates that an estimated $500 million will be available for QLA Program payments. However, the amount of funding ultimately available for the QLA Program will not be known until other payments, for example for excessive moisture and drought under WHIP+, are finalized.

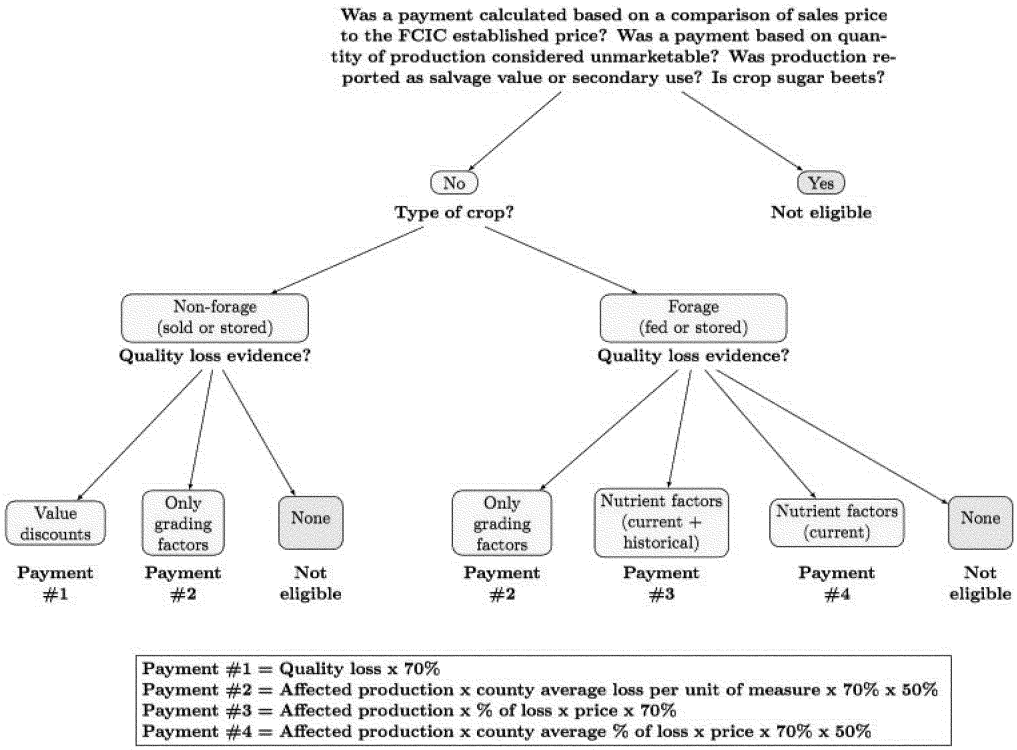
The QLA Program payment calculation depends on several factors, as shown in Figure 1. A producer is ineligible for a QLA Program payment if they received a crop insurance indemnity, NAP payment, or WHIP+ payment for a crop that was unmarketable, sold for salvage value or secondary use, or if the payment was based on a comparison of the sales price of the affected production and the applicable reference price. Otherwise, payments or benefits received under the Federal crop insurance, NAP or WHIP+ do not affect a producer's eligibility or payment received from the QLA Program. The payment calculation depends on the use of production (non-forage or forage) and evidence at hand of the crop quality loss. Producers who do not have evidence of the quality loss are ineligible.

[4] The addition of excessive moisture and certain drought conditions as qualifying causes of loss under WHIP+ is specific, not open to interpretation, and is therefore self-enacting. Accordingly, the provision was previously implemented. FSA began the sign-up period on March 23, 2020, and sign-up ended on October 30, 2020.

[5] Assistance for sugar beet losses for members of cooperative processors is provided through a separate program.

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Figure 1. Eligibility and Payment Calculation



Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA, Pub. L. 104–121), generally requires an agency to prepare a regulatory flexibility analysis of any rule whenever an agency is required by the Administrative Procedure Act or any other law to publish a proposed rule, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule is not subject to the Regulatory Flexibility Act because USDA is not required by Administrative Procedure Act or any law to publish a proposed rule for this rulemaking.

Environmental Review

The environmental impacts of this final rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and the FSA regulation for compliance with NEPA (7 CFR part 799). The legislative intent for implementing the QLA Program is to provide assistance to producers who suffered eligible crop quality losses due to hurricanes, excessive moisture, floods, drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.

While OMB has designated this rule as ''economically significant'' under Executive Order 12866, ''economic or social effects are not intended by themselves to require preparation of an environmental impact statement'' (see 40 CFR 1502.16(b)), when not interrelated to natural or physical environmental effects.

For this rule, the FSA Categorical Exclusions found in 7 CFR 799.31 apply, specifically 7 CFR 799.31(b)(6)(iii), (iv), and (vi) (that is, § 799.31(b)(6)(iii) Financial assistance to supplement income, manage the supply of agricultural commodities, or influence the cost or supply of such commodities or programs of a similar nature or intent (that is, price support programs); § 799.31(b)(6)(iv) Individual farm participation in FSA programs where no ground disturbance or change in land use occurs as a result of the proposed action or participation; and § 799.31(b)(6)(vi) Safety net programs administered by FSA). No Extraordinary Circumstances (7 CFR 799.33) exist.

For the outlined reasons, FSA has determined that the implementation of the QLA Program and the participation in the QLA Program does not constitute a major Federal action that would significantly affect the quality of the human environment, individually or cumulatively. Therefore, FSA will not prepare an environmental assessment or environmental impact statement for this regulatory action.

Executive Order 12372

Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' requires consultation with State and local officials that would be directly affect by proposed Federal financial assistance. The objectives of the Executive order are to foster an intergovernmental partnership and a strengthened federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance and direct Federal development. For reasons specified in the final rule related notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs and activities

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within this rule are excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, ''Civil Justice Reform.'' This rule will not preempt State or local laws, regulations, or policies unless they represent an irreconcilable conflict with this rule. The rule will not have retroactive effect. Before any judicial action may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR parts 11 and 780 must be exhausted.

Executive Order 13132

This rule has been reviewed under Executive Order 13132, ''Federalism.'' The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, except as required by law. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

The USDA's Office of Tribal Relations (OTR) has assessed the impact of this rule on Indian Tribes and determined that this rule may have significant Tribal implications that require ongoing adherence to Executive Order 13175. OTR notes that the programs are similar to programs that have been administered by FSA and RMA in the past; having not heard any concerns regarding the administration of these in the past, and the fact that provisions are mandated in the Disaster Relief Act, OTR recommended that consultation is not required at this time. Tribes can request consultation at any time. FSA will work with OTR to ensure meaningful consultation is provided where changes, additions, and modifications identified in this rule are not expressly mandated by law.

The Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104–4) requires Federal agencies to assess the effects of their regulatory actions on State local, and Tribal governments or the private sector. Agencies generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures of $100 million or more in any 1 year for State, local, or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates, as defined in Title II of UMRA, for State, local, and Tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, FSA submitted the QLA Program information collection request to OMB for emergency approval. OMB approved the 6-month emergency information collection.

E-Government Act Compliance

FSA is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Federal Assistance Programs

The titles and numbers of the Federal Domestic Assistance Program found in the Catalog of Federal Domestic Assistance to which this rule applies are:

10.129—Wildfire and Hurricanes Indemnity Program Plus

10.133—Quality Loss Adjustment Program

List of Subjects in 7 CFR Part 760

Dairy products, Indemnity payments, Reporting and recordkeeping requirements.

For the reasons discussed above, FSA amends 7 CFR part 760 as follows:

PART 760—INDEMNITY PAYMENT PROGRAMS

■ 1. Revise the authority citation for part 760 to read as follows:

Authority: 7 U.S.C. 4501 and 1531; 16 U.S.C. 3801, note; 19 U.S.C. 2497; Title III, Pub. L. 109–234, 120 Stat. 474; Title IX, Pub. L. 110–28, 121 Stat. 211; Sec. 748, Pub. L. 111–80, 123 Stat. 2131; Title I, Pub. L. 115–123, 132 Stat. 65; Title I, Pub. L. 116–20, 133 Stat. 871; and Division B, Title VII, Pub. L. 116–94, 133 Stat. 2658.

Subpart O—Agricultural Disaster Indemnity Programs

§ 760.1500 [Amended]

■ 2. In § 760.1500(c), remove the words ''and wildfires'' and add ''wildfires, excessive moisture, and qualifying drought'' in their place.

■ 3. Amend § 760.1502 as follows:

■ a. In the definition of ''Qualifying disaster event'', in paragraph (2) of remove the word ''wildfire'' and add ''wildfire, excessive moisture, qualifying drought'' in its place; and

■ b. Add the definitions of ''Qualifying drought'' and ''U.S. Drought Monitor'' in alphabetical order.

The additions read as follows:

§ 760.1502 Definitions.

* * * * *

Qualifying drought means an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year.

* * * * *

U.S. Drought Monitor is a system for classifying drought severity according to a range of abnormally dry to exceptional drought. It is a collaborative effort between Federal and academic partners, produced on a weekly basis, to synthesize multiple indices, outlooks, and drought impacts on a map and in narrative form. This synthesis of indices is reported by the National Drought Mitigation Center at *http://droughtmonitor.unl.edu.*

* * * * *

■ 4. In § 760.1503, add paragraph (j) to read as follows.

§ 760.1503 Eligibility.

* * * * *

(j) Members of cooperative processors are not eligible for WHIP+ assistance for sugar beet losses.

§ 760.1508 [Amended]

■ 5. Amend § 760.1508 as follows:

■ a. In paragraph (c), remove the cross reference ''paragraph (b)(1)'' and add the cross reference ''paragraph (b)'' in its place; and

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■ b. In paragraph (f), remove the cross reference ''paragraph (b)(1)'' and add cross reference ''paragraph (e)'' in its place.

§ 760.1510 [Amended]

■ 6. In § 760.1510(a), remove the words ''a date that will be announced by the Deputy Administrator'' and add ''October 30, 2020'' in their place.

§ 760.1511 [Amended]

■ 7. In § 760.1511(a)(6), remove the cross reference ''paragraph (f)'' and add cross reference ''paragraph (g)'' in its place.

■ 8. Add subpart R, consisting of §§ 760.1800 through 760.1814, to read as follows:

Subpart R—Quality Loss Adjustment Program

Sec.

760.1800 Applicability.
760.1801 Administration.
760.1802 Definitions.
760.1803 Participant eligibility.
760.1804 Eligibility of affected production.
760.1805 Qualifying disaster events.
760.1806 Ineligible losses.
760.1807 Miscellaneous provisions.
760.1808 General provisions.
760.1809 Payment and adjusted gross income limitation.
760.1810 Time and method of application.
760.1811 Required documentation and verification.
760.1812 Payment calculation.
760.1813 Availability of funds and timing of payments.
760.1814 Requirement to purchase crop insurance or NAP coverage.

§ 760.1800 Applicability.

This subpart specifies the terms and conditions for the Quality Loss Adjustment (QLA) Program. The QLA Program provides disaster assistance for crop quality losses that were a consequence of hurricanes, excessive moisture, floods, qualifying drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.

§ 760.1801 Administration.

(a) The QLA Program is administered under the general supervision of the Administrator, Farm Service Agency (FSA), and the Deputy Administrator for Farm Programs, FSA. The QLA Program is carried out by FSA State and county committees with instructions issued by the Deputy Administrator.

(b) FSA State and county committees, and representatives and their employees, do not have authority to modify or waive any of the provisions of the regulations in this subpart or instructions issued by the Deputy Administrator.

(c) The FSA State committee will take any action required by the regulations in this subpart that the FSA county committee has not taken. The FSA State committee will also:

(1) Correct, or require an FSA county committee to correct, any action taken by the FSA county committee that is not in accordance with the regulations in this subpart; or

(2) Require an FSA county committee to withhold taking any action that is not in accordance with this subpart.

(d) No delegation to an FSA State or county committee precludes the FSA Administrator or the Deputy Administrator from determining any question arising under this subpart or from reversing or modifying any determination made by an FSA State or county committee.

(e) The Deputy Administrator has the authority to:

(1) Permit State and county committees to waive or modify a non-statutory deadline specified in this subpart; and

(2) Delegate authority to FSA State or county committees to make determinations under § 760.1812(f) and (g).

(f) Items of general applicability to program participants, including, but not limited to, application periods, application deadlines, internal operating guidelines issued to FSA State and county offices, prices, and payment factors established under this subpart, are not subject to appeal in accordance with part 780 of this chapter.

§ 760.1802 Definitions.

The following definitions apply to this subpart. The definitions in §§ 718.2 and 1400.3 of this title also apply, except where they conflict with the definitions in this section. In the event of conflict, the definitions in this section apply.

Affected production means the producer's ownership share of harvested production of an eligible crop, adjusted to standard moisture as established by the U.S. Grains Standards Act, a State regulatory agency, or industry standard, that had both:

(1) A quality loss due to a qualifying disaster event; and

(2) At least a 5 percent quality loss due to all eligible disaster events.

Average market price means the average market price determined according to § 1437.12 of this title.

Coverage level means the percentage determined by multiplying the elected yield percentage under a crop insurance policy or NAP coverage by the elected price percentage.

Crop insurance means an insurance policy reinsured by FCIC under the provisions of the Federal Crop Insurance Act, as amended. It does not include private plans of insurance.

Crop insurance indemnity means, for the purpose of this subpart, the payment to a participant for crop losses covered under crop insurance administered by RMA in accordance with the Federal Crop Insurance Act (7 U.S.C. 1501–1524).

Crop year means:

(1) For insurable crops, the crop year as defined according to the applicable crop insurance policy; and

(2) For NAP-eligible crops, the crop year as defined in § 1437.3 of this title.

Eligible crop means a crop for which coverage was available either from FCIC under part 400 of this title, or through NAP under § 1437.4 of this title.

Eligible disaster event means a disaster event that is an eligible cause of loss specified in § 1437.10 of this title, excluding insect infestation.

FCIC means the Federal Crop Insurance Corporation, a wholly owned Government Corporation of USDA, administered by RMA.

FSA means the Farm Service Agency, an agency of USDA.

Grading factor means a factor that describes the physical condition or a feature that is evaluated to determine the quality of the production, such as broken kernels and low-test weight.

Good farming practices means the cultural practices generally recognized as compatible with agronomic and weather conditions and used for the crop to make normal progress toward maturity, as determined by FSA. These practices are:

(1) For conventional farming practices, those generally recognized by agricultural experts for the area, which could include one or more counties; or

(2) For organic farming practices, those generally recognized by the organic agricultural experts for the area or contained in the organic system plan that is in accordance with the National Organic Program specified in part 205 of this title.

Harvested means:

(1) For insurable crops, harvested as defined according to the applicable crop insurance policy;

(2) For NAP-eligible single harvest crops, that a crop has been removed from the field, either by hand or mechanically;

(3) For NAP-eligible crops with potential multiple harvests in 1 year or harvested over multiple years, that the producer has, by hand or mechanically, removed at least 1 mature crop from the field during the crop year; and

(4) For mechanically harvested NAP-eligible crops, that the crop has been

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removed from the field and placed in a truck or other conveyance, except hay is considered harvested when in the bale, whether removed from the field or not.

Insurable crop means an agricultural crop (excluding livestock) for which the producer on a farm is eligible to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501–1524).

Multiple market crop means a crop that is delivered to a single market but can have fresh and processed prices based on grading. For example, a producer may intend to sell all production of an apple crop as fresh production; however, based on grading of the crop at the market, the producer is compensated for some production at the fresh price and for some production at the processing price.

Multiple planting means the planting for harvest of the same crop in more than one planting period in a crop year on different acreage.

NAP means the Noninsured Crop Disaster Assistance Program under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) and part 1437 of this title.

NAP-eligible crop means an agricultural crop for which the producer on a farm is eligible to obtain NAP coverage.

NAP service fee means the amount specified in § 1437.7 of this title that the producer must pay to obtain NAP coverage.

Nutrient factor means a factor determined by a test that measures the nutrient value of a crop to be fed to livestock. Examples include, but are not limited to, relative feed value and total digestible nutrients.

Production means quantity of the crop produced, which is expressed in a specific unit of measure including, but not limited to, bushels or pounds.

QLA Program means the Quality Loss Adjustment Program.

Qualifying disaster event means a hurricane, flood, tornado, typhoon, volcanic activity, snowstorm, wildfire, excessive moisture, qualifying drought, or a related condition that occurred in the 2018 or 2019 calendar year.

Qualifying drought means an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year.

Quality loss means:

(1) For forage crops, a reduction in an applicable nutrient factor for the crop; and

(2) For crops other than forage, a reduction in the total dollar value of the crop due to reduction in the physical condition of the crop indicated by an applicable grading factor.

Related condition means damaging weather or an adverse natural occurrence that occurred as a direct result of a specified qualifying disaster event, such as excessive rain, high winds, flooding, mudslides, and heavy smoke, as determined by the Deputy Administrator. The term does not include insect infestation.

Reliable production record means evidence provided by the participant that is used to substantiate the amount of production reported when verifiable records are not available, including copies of receipts, ledgers of income, income statements of deposit slips, register tapes, invoices for custom harvesting, and records to verify production costs, contemporaneous measurements, truck scale tickets, and contemporaneous diaries that are determined acceptable by the FSA county committee. To determine whether the records are acceptable, the FSA county committee will consider whether they are consistent with the records of other producers of the crop in that area.

RMA means the Risk Management Agency, an agency of USDA.

Salvage value means the dollar amount or equivalent for the quantity of the commodity that cannot be marketed or sold in any recognized market for the crop.

Secondary use means the harvesting of a crop for a use other than the intended use.

Unit of measure means:

(1) For insurable crops, the FCIC-established unit of measure; and

(2) For NAP-eligible crops, the established unit of measure used for the NAP price and yield.

USDA means the U.S. Department of Agriculture.

U.S. Drought Monitor is a system for classifying drought severity according to a range of abnormally dry to exceptional drought. It is a collaborative effort between Federal and academic partners, produced on a weekly basis, to synthesize multiple indices, outlooks, and drought impacts on a map and in narrative form. This synthesis of indices is reported by the National Drought Mitigation Center at *http://droughtmonitor.unl.edu.*

Value loss crop has the meaning specified in subpart D of part 1437 of this title.

Verifiable documentation means evidence that can be verified by FSA through an independent source.

Verifiable percentage of loss is the percentage of loss determined by comparing the applicable nutrient factors for a producer's affected production of a forage crop with the average of such nutrient factors from the 3 preceding crop years, as documented on FSA–899, Historical Nutritional Value Weighted Average Worksheet.

WHIP+ means the Wildfires and Hurricanes Indemnity Program Plus under subpart O of this part.

§ 760.1803 Participant eligibility.

(a) Participants will be eligible to receive a payment under this subpart only if they incurred a loss to an eligible crop due to a qualifying disaster event, as further specified in this subpart.

(b) To be an eligible participant under this subpart, a person or legal entity must be a:

(1) Citizen of the United States;

(2) Resident alien; for purposes of this subpart, resident alien means ''lawful alien'' (see § 1400.3 of this title);

(3) Partnership consisting solely of citizens of the United States or resident aliens; or

(4) Corporation, limited liability company, or other similar organizational structure organized under State law consisting solely of citizens or resident aliens of the United States.

(c) If any person who would otherwise be eligible to receive a payment dies before the payment is received, payment may be released as specified in § 707.3 of this chapter. Similarly, if any person or legal entity who would otherwise have been eligible to apply for a payment dies or is dissolved, respectively, before the payment is applied for, payment may be released in accordance with this subpart if a timely application is filed by an authorized representative. Proof of authority to sign for the deceased producer or dissolved entity must be provided. If a participant is now a dissolved general partnership or joint venture, all members of the general partnership or joint venture at the time of dissolution or their duly authorized representatives must sign the application. Eligibility of such participant will be determined, as it is for other participants, based upon ownership share and risk in producing the crop.

(d) An ownership share is required to be eligible for a payment under this subpart. Growers growing eligible crops under contract for crop owners are not eligible for a payment under this subpart unless the grower is also determined to have an ownership share of the crop. Any verbal or written contract that precludes the grower from having an ownership share renders the

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grower ineligible for payments under this subpart.

(e) A person or legal entity is not eligible to receive assistance under this subpart if FSA determines that the person or legal entity:

(1) Adopted any scheme or other device that tends to defeat the purpose of this subpart or any of the regulations applicable to this subpart;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination under any or all of the following: This subpart and parts 12, 400, 1400, and 1437 of this title.

(f) A person who is ineligible for crop insurance or NAP under § 400.458 or § 1437.16 of this title, respectively, for any year is ineligible for payments under this subpart for the same year.

(g) The provisions of § 718.11 of this chapter, providing for ineligibility for payments for offenses involving controlled substances, apply.

(h) As a condition of eligibility to receive payments under this subpart, the participant must have been in compliance with the Highly Erodible Land Conservation and Wetland Conservation provisions of part 12 of this title for the applicable crop year for which the producer is applying for benefits under this subpart, and must not otherwise be precluded from receiving payments under part 12, 400, 1400, or 1437 of this title or any law.

§ 760.1804 Eligibility of affected production.

(a) To be eligible for the QLA Program, an eligible crop's affected production must have suffered a quality loss due to a qualifying disaster event and had at least a 5 percent quality loss due to all eligible disaster events. Whether affected production of a crop had a 5 percent loss will be determined separately for crops with different crop types, intended uses, certified organic or conventional status, county, and crop year.

(b) Affected production of the following is not eligible for the QLA Program:

(1) Crops that were not grown commercially;

(2) Crops that were intended for grazing or were grazed;

(3) Crops not intended for harvest;

(4) Volunteer crops;

(5) Value loss crops;

(6) Maple sap;

(7) Honey;

(8) By-products resulting from processing or harvesting a crop, such as, but not limited to, cotton seed, peanut shells, wheat or oat straw, or corn stalks or stovers;

(9) First-year seeding for forage production;

(10) Immature fruit crops;

(11) Crops for which FCIC coverage or NAP coverage is unavailable;

(12) Multiple market crops for which the producer previously received a crop insurance indemnity or WHIP+ payment for a quality loss;

(13) Crops for which production used to calculate a crop insurance indemnity or WHIP+ payment was adjusted based on a comparison of the producer's sale price to FCIC established price;

(14) Crops that received a crop insurance indemnity, NAP payment, or WHIP+ payment based on the quantity of production that was considered unmarketable;

(15) Crops for which the producer previously received a crop insurance indemnity, NAP payment, or WHIP+ payment for which production was reported as salvage value or secondary use;

(16) Sugar beets for which a member of a cooperative processor received a payment through a cooperative agreement; and

(17) Crops that were destroyed.

(c) Only affected production from initial crop acreage will be eligible for a QLA Program payment, unless the provisions for subsequent crops in this section are met. All plantings of an annual or biennial crop are considered the same as a planting of an initial crop in tropical regions as defined in part 1437, subpart F, of this title.

(d) In cases where there is double cropped acreage, affected production of each crop may be eligible only if the specific crops are approved by the FSA State committee as eligible double cropping practices in accordance with procedures approved by the Deputy Administrator.

(e) Participants having affected production from multiple plantings may receive payments for each planting only if the planting meets the requirements of part 1437 of this title and all other provisions of this subpart are satisfied.

§ 760.1805 Qualifying disaster events.

(a) A producer is eligible for payments under this subpart only if the producer's affected production of an eligible crop suffered a crop quality loss due to a qualifying disaster event.

(b) A crop quality loss due to a qualifying disaster event must have occurred on acreage that was physically located in a county that received a:

(1) Presidential Emergency Disaster Declaration authorizing public assistance for categories C through G or individual assistance due to a qualifying disaster event occurring in the 2018 or 2019 calendar years; or

(2) Secretarial Disaster Designation for a qualifying disaster event occurring in the 2018 or 2019 calendar years.

(c) A producer with a crop quality loss on acreage not physically located in a county that was eligible under paragraph (b) of this section will be eligible for the QLA Program for losses due to qualifying disaster events only if the producer provides supporting documentation from which the FSA county committee determines that the crop quality loss on the unit was reasonably related to a qualifying disaster event as specified in this subpart. Supporting documentation may include furnishing climatological data from a reputable source or other information substantiating the claim of loss due to a qualifying disaster event.

§ 760.1806 Ineligible losses.

(a) A loss is not eligible under this subpart if any of the following apply:

(1) The cause of loss is determined by FSA to be the result of poor management decisions, poor farming practices, or drifting herbicides;

(2) The loss could have been mitigated using good farming practices, including losses due to high moisture content that could be mitigated by following best practices for drying and storing the crop;

(3) The qualifying disaster event occurred after the crop was harvested;

(4) FSA or RMA have previously disapproved a notice of loss for the crop and disaster event, unless that notice of loss was disapproved solely because it was filed after the applicable deadline; or

(5) The cause of loss was due to:

(i) Conditions or events occurring outside of the applicable growing season for the crop;

(ii) Insect infestation;

(iii) Water contained or released by any governmental, public, or private dam or reservoir project if an easement exists on the acreage affected by the containment or release of the water;

(iv) Failure of a power supply or brownout; or

(v) Failure to harvest or market the crop due to lack of a sufficient plan or resources.

(b) [Reserved]

§ 760.1807 Miscellaneous provisions.

(a) All persons with a financial interest in a legal entity receiving payments under this subpart are jointly and severally liable for any refund, including related charges, that is determined to be due to FSA for any reason.

(b) In the event that any application under this subpart resulted from

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erroneous information or a miscalculation, the payment will be recalculated and any excess refunded to FSA with interest to be calculated from the date of the disbursement.

(c) Any payment to any participant under this subpart will be made without regard to questions of title under State law, and without regard to any claim or lien against the commodity, or proceeds, in favor of the owner or any other creditor except agencies of the U.S. Government. The regulations governing offsets and withholdings in part 3 of this chapter apply to payments made under this subpart.

(d) Any participant entitled to any payment may assign any payment(s) in accordance with regulations governing the assignment of payments in part 3 of this chapter.

(e) The regulations in parts 11 and 780 of this title apply to determinations under this subpart.

§ 760.1808 General provisions.

(a) Eligibility and payments under this subpart will be determined based on the county where the affected production was harvested.

(b) FSA county committees will make any necessary adjustments to the applicant's affected production and other information on the application form used to calculate a payment when the county committee determines:

(1) Additional documentation has been requested by FSA but has not been provided by the participant;

(2) The loss is due to an ineligible cause; or

(3) The participant has a contract providing a guaranteed payment for all or a portion of the crop.

(c) Unless otherwise specified, all eligibility provisions of part 1437 of this title also apply to tropical crops for eligibility under this subpart.

(d) FSA will use the most reliable data available at the time payments under this subpart are calculated. If additional data or information is provided or becomes available after a payment is issued, FSA will recalculate the payment amount and the producer must return any overpayment amount to FSA. In all cases, payments can only issue based on the payment formula for losses that affirmatively occurred.

(e) Production that is commingled between counties, crop years, or ineligible and eligible acres before it was a matter of record or combination of record and cannot be separated by using records or other means acceptable to FSA will be prorated to each respective year, county, or type of acreage, respectively.

§ 760.1809 Payment and adjusted gross income limitation.

(a) A person or legal entity, other than a joint venture or general partnership, is eligible to receive, directly or indirectly, payments of not more than $125,000 for each of the 2018, 2019, and 2020 crop years under this subpart.

(b) Payments made to a joint operation, including a joint venture or general partnership, cannot exceed the amount determined by multiplying the maximum payment amount specified in paragraph (a) of this section by the number of persons and legal entities, other than joint operations, that comprise the ownership of the joint operation.

(c) The direct attribution provisions in § 1400.105 of this title apply to payments under this subpart.

(d) The notification of interest provisions in § 1400.107 of this title apply to payments under this subpart.

(e) The provisions for recognizing persons added to a farming operation for payment limitation purposes as described in § 1400.104 of this title apply to payments under this subpart.

(f) The $900,000 average AGI limitation provisions in part 1400 of this title relating to limits on payments for persons or legal entities, excluding joint ventures and general partnerships, apply to each applicant for the QLA Program unless at least 75 percent of the person or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. A person's or legal entity's average AGI for each of the program years 2018, 2019 or 2020, is determined by using the average of the adjusted gross incomes for the 3 taxable years preceding the most immediately preceding taxable year. If the person's or legal entity's average AGI is below $900,000 or at least 75 percent of the person or legal entity's average AGI is derived from farming, ranching, or forestry-related activities, the person or legal entity, is eligible to receive payments under this subpart.

§ 760.1810 Time and method of application.

(a) A completed FSA–898, Quality Loss Adjustment (QLA) Program Application, must be submitted in person, by mail, email, or facsimile to any FSA county office by the close of business on March 5, 2020.

(b) An application submitted in accordance with paragraph (a) of this section is not considered valid and complete for issuance of payment under this subpart unless FSA determines all the applicable eligibility provisions have been satisfied and the producer has submitted all of following by March 19, 2020:

(1) Documentation required by § 760.1811;

(2) FSA–578, Report of Acreage, for all acreage for any crop for which payments under this subpart are requested;

(3) FSA–895, Crop Insurance and/or NAP Coverage Agreement; and

(4) For forage crops, FSA–899, Historical Nutritional Value Weighted Average Worksheet, if verifiable documentation of historical nutrient factors is available.

(c) In addition to the forms listed in paragraph (b) of this section, applicants must also submit all the following eligibility forms within 60 days from the date of signing the QLA Program application if not already on file with FSA:

(1) AD–1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation Certification;

(2) CCC–902 Automated, Farm Operating Plan for Payment Eligibility 2009 and Subsequent Program Years;

(3) CCC–941 Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information; and

(4) CCC–942 Certification of Income from Farming, Ranching and Forestry Operations, if applicable.

(d) Failure to submit all required forms by the applicable deadlines in paragraphs (b) and (c) of this section may result in no payment or a reduced payment.

(e) Application approval and payment by FSA does not relieve a participant from having to submit any form required, but not filed, according to this section.

(f) Once signed by a producer, the application is considered to contain information and certifications of and pertaining to the producer regardless of who entered the information on the application.

(g) The producer applying for payment under this subpart certifies the accuracy and truthfulness of the information provided in the application as well as any documentation filed with or in support of the application. All information is subject to verification or spot check by FSA at any time, either before or after payment is issued. Refusal to allow FSA or any agency of the USDA to verify any information provided will result in the participant's forfeiting eligibility for payment under this subpart. FSA may at any time, including before, during, or after processing and paying an application, require the producer to submit any additional information necessary to implement or determine any eligibility

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provision of this subpart. Furnishing information specified in this subpart is voluntary; however, FSA may choose not to act on the application or approve payment if the required information is not provided. Providing a false certification will result in ineligibility and can also be punishable by imprisonment, fines, and other penalties.

§ 760.1811 Required documentation and verification.

(a) If requested by FSA, an applicant must provide documentation that establishes the applicant's ownership share and value at risk in the crop.

(b) The applicant must provide acceptable documentation that is dated and contains all information required to substantiate the applicant's certification to the satisfaction of the FSA county committee. Verifiable documentation is required to substantiate the total dollar value loss and associated affected production, grading factors, and nutritional factors. FSA may verify the records with records on file at the warehouse, gin, or other entity that received or may have received the reported production. Reliable production records are required to substantiate the reported amount of affected production for applications not based on the total dollar value loss.

(c) To be considered acceptable, verifiable documentation for grain crops that were sold may come from any time between harvest and sale of the affected production, unless the FSA county committee determines the record is not representative of the condition within 30 days of harvest. For all other crops, the verifiable documentation must come from tests or analysis completed within 30 days of harvest, unless the FSA county committee determines that the record is representative of the condition of the affected production at time of harvest. Examples of acceptable records for purposes of this paragraph (c) include:

(1) Warehouse grading sheets;

(2) Settlement sheets;

(3) Sales receipts showing grade and price or disposition to secondary market due to quality; and

(4) Laboratory test results.

(d) For forage crops, producers must submit verifiable documentation showing the nutrient factors for the affected production. Producers must also submit verifiable documentation of the historical nutrient factors for the 3 preceding crop years if available. The nutrient factors that must be documented for a crop will determined by the FSA county committee based on the standard practice for the crop in that county.

(e) For all crops other than forage crops, producers must submit verifiable documentation of the total dollar value loss due to quality, if available, and verifiable documentation of grading factors due to quality.

(f) The participant is responsible for:

(1) Retaining, providing, and summarizing, at time of application and whenever required by FSA, the best available verifiable production records for the crop;

(2) Providing the information in a manner that can be easily understood by the FSA county committee; and

(3) Providing supporting documentation about the disaster event if the FSA county committee has reason to question the disaster event.

(e) Participants must provide all records for any production of a crop that is grown with an arrangement, agreement, or contract for guaranteed payment.

(f) Participants are required to retain documentation in support of their application for 3 years after the date of approval.

(g) Participants receiving QLA Program payments or any other person who furnishes such information to USDA must permit authorized representatives of USDA or the Government Accountability Office, during regular business hours, to enter the agricultural operation and to inspect, examine, and make copies of books, records, or other items for the purpose of confirming the accuracy of the information provided by the participant.

§ 760.1812 Payment calculation.

(a) Payments will be calculated separately for crops based on the crop type, intended use, certified organic or conventional status, county, and crop year.

(b) For forage crops with verifiable documentation of nutrient factors for the affected production and for the 3 preceding crop years, the payment will be equal to the producer's total affected production multiplied by the producer's verifiable percentage of loss, multiplied by the average market price, multiplied by 70 percent.

(c) For forage crops with verifiable documentation of nutrient factors for the affected production but not for the 3 preceding crop years, the payment will be equal to the producer's total affected production multiplied by the county average percentage of loss in paragraph (f) of this section, multiplied by the average market price, multiplied by 70 percent, multiplied by 50 percent.

(d) For crops other than forage with verifiable documentation of the total dollar value loss due to quality, the payment will be equal to the producer's total dollar value loss on the affected production, multiplied by 70 percent.

(e) For crops other than forage without verifiable documentation of the total dollar value loss but with verifiable documentation of grading factors, the payment will be equal to the producer's affected production multiplied by the county average loss per unit of measure in paragraph (g) of this section, multiplied by 70 percent, multiplied by 50 percent.

(f) The county average percentage of loss is the average percentage of loss from producers eligible for payment under paragraph (b) of this section if at least 5 producers in a county are eligible for payment for a crop under paragraph (b) of this section. If less than 5 producers in a county are eligible for payment for a crop under paragraph (b) of this section, the Deputy Administrator will:

(1) Determine a county average percentage of loss based on the best available data, including, but not limited to, evidence of losses in contiguous counties; or

(2) If a county average percentage of loss cannot be determined due to insufficient data, not issue payments to applicants under paragraph (c) of this section.

(g) The county average loss per unit of measure is based on the weighted average sales price from producers eligible for payment under paragraph (d) of this section if at least 5 producers in a county are eligible for payment for a crop under paragraph (d) of this section. If less than 5 producers are eligible for payment in a county under paragraph (d) of this section, the Deputy Administrator will:

(1) Determine a county average loss per unit of measure based on the best available data, including, but not limited to, evidence of losses in contiguous counties; or

(2) If a county average loss per unit of measure cannot be determined due to insufficient data, not issue payments to applicants under paragraph (e) of this section.

§ 760.1813 Availability of funds and timing of payments.

(a) Payments will be issued after the application period has ended and all applications have been reviewed by FSA.

(b) In the event that, within the limits of the funding made available by the Secretary, approval of eligible applications would result in payments

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in excess of the amount available, FSA will prorate payments by a national factor to reduce the payments to an amount that is less than available funds as determined by the Secretary.

(c) Applications and claims that are unpaid or prorated for any reason will not be carried forward for payment under other funds for later years or otherwise, but will be considered, as to any unpaid amount, void and nonpayable.

§ 760.1814 Requirement to purchase crop insurance or NAP coverage.

(a) For the first 2 consecutive crop years for which crop insurance or NAP coverage is available after the enrollment period for the QLA Program ends, a participant who receives payment under this subpart for a crop loss in a county must obtain:

(1) For an insurable crop, crop insurance with at least a 60 percent coverage level for that crop in that county; or

(2) For a NAP-eligible crop, NAP coverage with a coverage level of 60 percent.

(b) Participants who exceed the average adjusted gross income limitation for NAP payment eligibility [1] for the applicable crop year may meet the purchase requirement specified in paragraph (a)(2) of this section by purchasing Whole-Farm Revenue Protection crop insurance coverage, if eligible, or paying the NAP service fee and premium even though the participant will not be eligible to receive a NAP payment due to the average adjusted gross income limit.

(c) The final crop year to purchase crop insurance or NAP coverage to meet the requirements of paragraph (a) of this section is the 2023 crop year.

(d) A participant who obtained crop insurance or NAP coverage for the crop in accordance with the requirements for WHIP+ in § 760.1517 is considered to have met the requirement to purchase crop insurance or NAP coverage for the QLA Program.

(e) If a producer fails to obtain crop insurance or NAP coverage as required in this section, the producer must reimburse FSA for the full amount of QLA Program payment plus interest. A producer will only be considered to have obtained NAP coverage for the purposes of this section if the participant submitted a NAP application for coverage and paid the requisite NAP service fee and any applicable premium by the applicable deadline and completed all program requirements required under the coverage agreement, including filing an acreage report.

Richard Fordyce,

Administrator, Farm Service Agency.

[FR Doc. 2020–28914 Filed 1–5–21; 8:45 am]

BILLING CODE 3410–05–P

[1] See §§ 1400.500(a) and 1400.1(a)(4) of this title.

DEPARTMENT OF ENERGY

10 CFR Part 1061

RIN 1990–AA50

Procedures for the Issuance of Guidance Documents

AGENCY: Office of the General Counsel, Department of Energy.

ACTION: Final rule.

SUMMARY: The U.S. Department of Energy (DOE) publishes this final rule to establish procedures for the issuance of DOE guidance documents in accordance with Executive Order 13891. In this final rule, DOE establishes internal agency requirements for the contents of guidance documents, and procedures for providing notice of, and soliciting public comment on, certain guidance documents. This final rule also establishes procedures for the public to petition DOE to modify or withdraw guidance documents.

DATES: The effective date of this rule is February 5, 2021.

ADDRESSES: The docket for this rulemaking, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *https://www.regulations.gov*. All documents in the docket are listed in the *https://www.regulations.gov* index. However, not all documents listed in the index, such as those containing information that is exempt from public disclosure by law, may be publicly available. A link to the docket web page can be found at *https://www.regulations.gov/document?D=DOE-HQ-2020-0033-0001*. The docket web page explains how to access all documents, including public comments, in the docket.

FOR FURTHER INFORMATION CONTACT: Mr. Matthew Ring, U.S. Department of Energy, Office of the General Counsel, Forrestal Building, GC–33, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–2555, Email: *Guidance@hq.doe.gov*.

SUPPLEMENTARY INFORMATION:

I. Summary of Final Rule

In this final rule, DOE incorporates into the Code of Federal Regulations a new 10 CFR part 1061, which implements the requirements of Executive Order 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents.'' (84 FR 55235 (Oct. 15, 2019)) Among other things, Executive Order 13891 requires agencies to provide more transparency for their guidance documents by creating a searchable online database for current guidance documents,[1] and by establishing procedures to allow the public to comment on significant guidance documents and to petition the agency to withdraw or modify guidance documents.[2] Moreover, the Executive Order requires agencies to clearly state in their guidance documents that such guidance does not have the force and effect of law and is not legally binding, except as authorized by law or as incorporated into a contract. (84 FR 55235, 55237)

This final rule applies to all DOE guidance documents, as defined by Executive Order 13891, including the exceptions listed in section 2 of the Executive Order. This final rule also lists specific types of documents and communications that fall within the broader exceptions listed in the Executive Order (*e.g.,* speeches and presentations given by DOE officials, legal positions taken in litigation or enforcement actions). (See also OMB M–20–02, Guidance Implementing Executive Order 13891, Titled ''Promoting the Rule of Law Through Improved Agency Guidance Documents'' (Oct. 31, 2019), available at *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*). This final rule also adopts the same definition of ''significant guidance document'' as section 2 of Executive Order 13891.

In accordance with Executive Order 13891, this final rule requires that all DOE guidance documents clearly state that they do not have the force and effect of law and are not legally binding on the public, and that they are only intended to provide clarity to the public

[1] DOE's online database may be found at *energy.gov/guidance*.

[2] Executive Order 13891 defines ''significant guidance document'' as ''a guidance document that may reasonably be anticipated to: (i) Lead to an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (ii) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (iii) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (iv) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles of Executive Order 12866.'' (84 FR 55235, 55236)

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An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

Elizabeth K. Appel,

Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2021–00317 Filed 1–8–21; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–OIA–31249; PIN00IO14.XI0000]

U.S. Nominations to the World Heritage List; 15-Day Notice of Opportunity for Public Comment

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: This notice requests public comment on the next potential U.S. nominations from the U.S. World Heritage Tentative List (''Tentative List'') to the United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage List. The public may also make suggestions for future additions to the Tentative List. This notice complies with applicable World Heritage Program regulations.

DATES: Comments will be accepted on or before January 26, 2021.

ADDRESSES: You may submit comments by either of the following methods:

- *Mail to:* Jonathan Putnam, Office of International Affairs, National Park Service, 1849 C Street NW, Washington, DC 20240.
- *Email to: jonathan_putnam@nps.gov*. Phone: (202) 354–1809.

Comments will not be accepted in any way other than those specified above.

Information on the U.S. World Heritage program can be found at: *https://www.nps.gov/subjects/internationalcooperation/worldheritage.htm*.

To request a paper copy of the U.S Tentative List, please contact April Brooks, Office of International Affairs, National Park Service, 1849 C Street NW, Room 2415, Washington, DC 20240 (202) 354–1808, or Email: *april_brooks@nps.gov*.

FOR FURTHER INFORMATION CONTACT: Jonathan Putnam, (202) 354–1809.

For the World Heritage nomination format, see the World Heritage Centre website at: *http://whc.unesco.org/en/nominations*.

SUPPLEMENTARY INFORMATION:

Background

The World Heritage List is an international list of cultural and natural properties nominated by the signatories to the World Heritage Convention (1972), an international treaty for the preservation of natural and cultural heritage sites of global significance. U.S. participation and the roles of the Department of the Interior and the National Park Service are authorized by Title IV of the Historic Preservation Act Amendments of 1980 and conducted in accordance with 36 CFR part 73—World Heritage Convention. The National Park Service serves as the principal technical agency for the U.S. Government to the Convention.

A Tentative List is a national list of natural and cultural properties appearing to meet the World Heritage Committee eligibility criteria for nomination to the World Heritage List. It is a list of candidate sites which a country may consider for nomination within a given time period, but does not guarantee future nomination. The World Heritage Committee's *Operational Guidelines* ask participating nations to provide Tentative Lists, which aid in evaluating properties for the World Heritage List on a comparative international basis and help the Committee to schedule its work over the long term. A country cannot nominate a property unless it has been on its Tentative List for a minimum of a year. Countries also are limited at this time to nominating no more than one site in any given year.

Neither inclusion in the Tentative List nor inscription as a World Heritage Site imposes legal restrictions on owners or neighbors of sites, nor does it give the United Nations any management authority or ownership rights in U.S. World Heritage Sites, which continue to be subject to U.S. laws.

Current U.S. World Heritage Tentative List

The current U.S. World Heritage Tentative List includes the following properties:

Cultural Sites

Civil Rights Movement Sites, Alabama [other properties would be added for a complete nomination]

—Dexter Avenue King Memorial Baptist Church, Montgomery
—Bethel Baptist Church, Birmingham
—16th Street Baptist Church, Birmingham

Dayton Aviation Sites, Ohio

—Dayton Aviation Heritage National Historical Park

Hopewell Ceremonial Earthworks, Ohio

—Fort Ancient State Memorial, Warren County
—Hopewell Culture National Historical Park, near Chillicothe
—Newark Earthworks State Historic Site, Newark and Heath

Jefferson (Thomas) Buildings, Virginia (Proposed Jointly as an Extension to the World Heritage Listing of Monticello and the University of Virginia Historic District)

—Poplar Forest, Bedford County
—Virginia State Capitol, Richmond

Mount Vernon, Virginia

Serpent Mound, Ohio

Ellis Island, New Jersey and New York

Chicago Early Skyscrapers, Illinois, including: [Other Properties May Be Added in the Course of Developing a Nomination]

—Rookery
—Auditorium Building
—Monadnock Building
—Ludington Building
—Marquette Building
—Old Colony Building
—Schlesinger & Mayer (Carson, Pirie Scott) Department Store
—Second Leiter Building
—Fisher Building

Central Park, New York

Brooklyn Bridge, New York

Moravian Bethlehem District, Pennsylvania

Natural Sites

National Marine Sanctuary of American Samoa (Formerly Fagatele Bay National Marine Sanctuary, American Samoa)

Okefenokee National Wildlife Refuge, Georgia

Petrified Forest National Park, Arizona

White Sands National Monument, New Mexico

Marianas Trench National Monument, U.S. Territory, Commonwealth of the Northern Mariana Islands, Guam

Central California Current, California, Including

—Cordell Bank National Marine Sanctuary
—Monterey Bay National Marine Sanctuary
—Greater Farallones National Marine Sanctuary
—Farallon Islands National Wildlife Refuge

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NM-OTERO-21-0275-A-000540

—Point Reyes National Seashore
—Golden Gate National Recreation Area

Big Bend National Park, Texas

Pacific Remote Islands National Monument, U.S. Territorial Waters

Notes: (1) A nomination for the Hopewell Ceremonial Earthworks was authorized for preparation in May 2018 by the Department of the Interior and is now under development. (2) The Department has requested and is now awaiting advice from the International Council on Monuments and Sites (ICOMOS) on adding other properties to the proposal for the Civil Rights Movement Sites and its overall justification. (3) The government of the German state of Saxony is proposing an extension to the World Heritage listing of Christiansfeld, a Moravian Church Settlement in Denmark, that would include Herrnhut in Germany, the Moravian Bethlehem District in Bethlehem, Pennsylvania, and potentially other historic Moravian settlements in other countries.

Request for Public Comments

Comments on whether to authorize the preparation of a World Heritage nomination for any of the properties on the Tentative List should address the readiness and ability of the property owner(s) to prepare a satisfactory nomination document. Suggestions for additions to the Tentative List not previously submitted must address: (i) How the property(ies) would meet the World Heritage nomination criteria, requirements for authenticity, integrity, legal protection and management. Information on these criteria and requirements can be found on the website noted in the **FOR FURTHER INFORMATION CONTACT** section of this notice; and (ii) The U.S. legal prerequisites that include the agreement of all property owners to the nomination of their property, an official determination that the property is nationally significant (such as by designation as a National Historic or National Natural Landmark), and effective legal protection. All previous suggestions for the Tentative List made during previous comment periods or otherwise submitted since 2008, have been retained and considered and should not be resubmitted at this time.

Selection and Nomination

All public comments will be summarized and provided to Department of the Interior officials, who will obtain the advice of the Federal Interagency Panel for World Heritage before making any selection of properties for authorization to prepare a World Heritage nomination. The selection may include relevant factors, such as the likelihood of being able to complete a satisfactory nomination, and the fact that the United States is currently prohibited by law from providing any funding to UNESCO, including UNESCO and World Heritage member dues. Once authorized, the property owners may prepare a draft nomination.

The Department does not have a fixed schedule for completing or submitting World Heritage nominations. No more than one nomination from any country may be submitted per year, per the UNESCO World Heritage *Operational Guidelines.* Completed nominations, if approved by the Department for submission, may be submitted to the UNESCO World Heritage Centre by February 1 of any year.

Public Availability of Comments

All comments will be a matter of public record. Before including an address, phone number, email address, or other personal identifying information in a comment, members of the public should be aware that the entire comment—including personal identifying information—may be made public at any time. While commenters can request that personal identifying information be withheld from public review, it may not be possible to comply with this request.

Authority: 54 U.S.C. 307101; 36 CFR part 73.

George Wallace,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2021–00310 Filed 1–8–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#-31331; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before December 25, 2020, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by January 26, 2021.

ADDRESSES: Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line ''Public Comment on property or proposed district name, (County) State.'' If you have no access to email you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before December 25, 2020. Pursuant to Section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State or Tribal Historic Preservation Officers:

CALIFORNIA

Orange County

Johnson, Hugh Edgar, House, 444 W. Brookdale Pl., Fullerton, SG100006089

FLORIDA

Monroe County

Matecumbe Methodist Church Cemetery, 81801 Overseas Hwy., Islamorada, SG100006117

Pinellas County

House at 827 Mandalay Avenue, 827 Mandalay Ave., Clearwater, SG100006118

Sumter County

Wild Cow Prairie Cemetery, 5822 Cty. Rd. 673, Bushnell vicinity, SG100006119

Volusia County

Wright, James W., Building, 258 West Voorhis Ave., DeLand, SG100006120

Walton County

Herman Lodge No. 108 Free & Accepted Masons of Florida, 314 Madison St., Freeport, SG100006121

ILLINOIS

Cook County

Irving, James B., House, 2771 Crawford Ave., Evanston, SG100006102

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7910–00–685–6660—Pad, Machine, Scrubbing, Floor, 17″ x ¼″
7910–00–685–6671—Pad, Machine, Polishing, Floor, 15″ x ¼″
7910–00–685–6672—Pad, Machine, Polishing, Floor, 17″ x ¼″
7910–00–685–6686—Pad, Machine, Polishing, Floor, 12″ x ¼″
7910–00–685–6687—Pad, Machine, Polishing, Floor, 13″ x ¼″
7910–00–820–7989—Pad, Floor, Buffing, Nylon, Tan, 15″
7910–00–NIB–0006—Pad, Floor, Burnishing, Animal Hair, Gray, 17″
7910–00–NIB–0009—Pad, Floor, Burnishing, Animal Hair, Gray, 21″
7910–00–NIB–0016—Pad, Floor, Polishing, Animal Hair, Beige, 17″
7910–00–NIB–0029—Pad, Floor, Buffing, Polyester, Red, 14″
7910–00–NIB–0030—Pad, Floor, Buffing, Polyester, Red, 15″
7910–00–NIB–0034—Pad, Floor, Scrubbing, Polyester, Blue, 14″
7910–00–NIB–0040—Pad, Floor, Scrubbing, Polyester, Blue, 21″
7910–01–512–5933—Pad, Floor, Stripping, Polyester, Brown, 17″
7910–01–512–5937—Pad, Floor, Scrubbing, Polyester, Blue, 13″
7910–01–512–5950—Pad, Floor, Scrubbing, Polyester, Blue, 17″

Designated Source of Supply: Beacon Lighthouse, Inc., Wichita Falls, TX
Contracting Activity: GSA/FSS Greater Southwest ACQUISITI, Fort Worth, TX

Michael R. Jurkowski,

Deputy Director, Business & PL Operations.

[FR Doc. 2021–00151 Filed 1–7–21; 8:45 am]

BILLING CODE 6353–01–P

COUNCIL ON ENVIRONMENTAL QUALITY

Guidance Document Online Portal

AGENCY: Council on Environmental Quality.

ACTION: Notice of online portal for agency guidance documents.

SUMMARY: In accordance with Executive Order (E.O.) 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' dated October 9, 2019, and Office of Management and Budget (OMB) Memorandum M–20–02, dated October 31, 2019, the Council on Environmental Quality (CEQ) is providing notice of where the public may access CEQ guidance documents.

ADDRESSES: The portal may be found at *https://www.whitehouse.gov/ceq/resources/*.

FOR FURTHER INFORMATION CONTACT: Amy B. Coyle, Deputy General Counsel, Council on Environmental Quality, 730 Jackson Place NW, Washington, DC 20503, 202–395–5750, *amy.b.coyle@ceq.eop.gov*.

SUPPLEMENTARY INFORMATION: E.O. 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' [1] requires that each agency establish or maintain on its website a single, searchable, indexed database that contains or links to all agency guidance documents [2] in effect. In accordance with E.O. 13891 and OMB's implementing guidance, set forth in OMB Memorandum M–20–02,[3] CEQ has complied with this requirement through its website portal, which is available to the public at *whitehouse.gov/ceq/resources*.[4] As required by E.O. 13891, the website also reiterates that: (1) The contents of the guidance documents accessed through the portal lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract; and (2) these documents are intended only to provide clarity to the public regarding existing requirements under statutes and regulations administered by CEQ. Under the E.O., CEQ may not cite, use, or rely on any guidance document that is not posted on or linked to the website portal, except to establish historical facts.

CEQ will also include on its website portal a link to its final rule establishing CEQ's internal agency procedures for issuing guidance documents, required by section 4 of E.O. 13891. The final rule relating to CEQ's guidance document procedures is published elsewhere in this issue of the **Federal Register**.

Authority: 42 U.S.C. 4321–4347; 42 U.S.C. 4371–4375; and E.O. 13891, 84 FR 55235.

Mary B. Neumayr,

Chairman.

[FR Doc. 2020–28879 Filed 1–7–21; 8:45 am]

BILLING CODE 3125–F1–P

[1] 84 FR 55235 (Oct. 15, 2019).

[2] E.O. 13891 defines ''guidance document'' as ''an agency statement of general applicability, intended to have future effect on the behavior of regulated parties, that sets forth a policy on a statutory, regulatory, or technical issue, or an interpretation of a statute or regulation. . . .'' *Id.*

[3] OMB issued its guidance memorandum on October 31, 2019. *See* M–20–02, Guidance Implementing Executive Order 13891, Titled ''Promoting the Rule of Law Through Improved Agency Guidance Documents'' (Oct. 31, 2019), *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*.

[4] CEQ's website portal at *https://www.whitehouse.gov/ceq/resources/* includes links to CEQ guidance documents and resources, some of which are provided on nepa.gov (*https://www.energy.gov/nepa/ceq-guidance-documents*) and sustainability.gov (*https://www.sustainability.gov/resources.html*).

DEPARTMENT OF EDUCATION

[Docket No. ED–2020–SCC–0167]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before February 8, 2021.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Find this information collection request by selecting ''Department of Education'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox. Comments may also be sent to *ICDocketmgr@ed.gov*.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, (202) 377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note

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PART 220—[REMOVED]

■ Accordingly, for the reasons stated in the preamble and under the authority of 5 U.S.C. 301, the Corps removes 33 CFR part 220.

R.D. James,

Assistant Secretary of the Army (Civil Works).

[FR Doc. 2020–27908 Filed 1–7–21; 8:45 am]

BILLING CODE 3720–58–P

COUNCIL ON ENVIRONMENTAL QUALITY

40 CFR Part 1519

RIN 0331–AA04

Guidance Document Procedures

AGENCY: Council on Environmental Quality.

ACTION: Final rule.

SUMMARY: Pursuant to Executive Order (E.O.) 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' this final rule establishes the process that the Council on Environmental Quality (CEQ) will follow for issuing guidance documents. E.O. 13891 requires Federal agencies to finalize regulations or amend existing regulations to establish processes and procedures for issuing guidance documents.

DATES: This rule is effective January 8, 2021.

FOR FURTHER INFORMATION CONTACT: Amy B. Coyle, Deputy General Counsel, Council on Environmental Quality, 730 Jackson Place NW, Washington, DC 20503, (202) 395–5750, *amy.b.coyle@ceq.eop.gov*.

SUPPLEMENTARY INFORMATION:

On October 9, 2019, President Trump issued E.O. 13891,[1] which addresses the development, use, and public availability of agency guidance documents. It requires agencies to promulgate or update existing regulations setting forth their procedures for issuing guidance documents. In accordance with section 6 of E.O. 13891, on October 31, 2019, the Office of Management and Budget (OMB) issued memorandum M–20–02, ''Guidance Implementing Executive Order 13891, Titled 'Promoting the Rule of Law Through Improved Agency Guidance Documents' '' (OMB M–20–02)[2] to provide guidance and implement the Executive order. OMB M–20–02 provides agencies with additional instruction on how to implement E.O. 13891, including the required rulemaking.

I. Summary of Final Rule

In this final rule, CEQ adds a new part 1519 to the Code of Federal Regulations to set out its procedures for the development and issuance of guidance documents consistent with the direction and reflecting the policies described in E.O. 13891 and OMB M–20–02.

A. Section 1519.1, ''Purpose''

Section 1519.1, ''Purpose,'' states that the purpose of part 1519 is to implement E.O. 13891, and explains CEQ's process for developing and issuing guidance.

B. Section 1519.2, ''Guidance Document Procedures''

Section 1519.2, ''Guidance document procedures,'' defines ''guidance documents'' in paragraph (a) and describes documents that do not meet that definition in paragraph (b), consistent with section 2(b)[3] of the E.O. and Q2 of OMB M–20–02.

Paragraph (c) of § 1519.2 lists the minimum requirements for any document meeting the definition of a guidance document consistent with Q22 of OMB M–20–02, including a title, unique identification number, date, indication of whether it revises or replaces prior guidance, summaries, and legal citations. Additionally, consistent with section 4(i) of E.O. 13891, paragraph (c)(6) includes a requirement that each guidance document clearly state that it does not bind the public, except as authorized by law or as incorporated into a contract.

Paragraph (c)(11) of § 1519.2 specifies that any guidance document must be posted on CEQ's website. E.O. 13891 also directed Federal agencies to make guidance documents publicly available in an indexed, searchable database online. As described in the **Federal Register** notice published today, CEQ has complied with this requirement through its website *whitehouse.gov/ceq/resources*.[4] As noted on this website, CEQ may not cite, use, or rely on any guidance that is not posted on its web pages except to establish historical facts. CEQ also makes clear that CEQ's guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract.

Finally, paragraph (d) of § 1519.2 requires the CEQ Office of the General Counsel to review and clear all guidance documents before CEQ issues them.

C. Section 1519.3, ''Procedures for the Public To Request Withdrawal or Modification of a Guidance Document''

Consistent with section 4(ii) of E.O. 13891, § 1519.3, ''Procedures for the public to request withdrawal or modification of a guidance document,'' addresses the process for members of the public to petition CEQ to withdraw or modify a particular guidance document, including designation of the Office of the General Counsel as the office within CEQ to which the public should direct such petitions. CEQ intends to provide additional instructions on its guidance website, including appropriate contact information and format of the petitions.

D. Section 1519.4, ''Significant Guidance Documents''

Finally, § 1519.4, ''Significant guidance documents,'' addresses specific requirements for a subset of ''guidance documents'' that are ''significant guidance documents'' as defined by section 2(c) of E.O. 13891. Paragraph (a) sets forth that definition. OMB's Office of Information and Regulatory Affairs (OIRA) makes the final determination of whether a guidance document is significant. If OIRA makes such a determination for a particular guidance document, this section will also apply. Consistent with section 4(iii) of E.O. 13891, paragraph (b) sets forth procedural requirements, including public notice and comment for at least 30 days, unless an exception applies; public response to major concerns raised in comments; approval on a non-delegable basis by the Chairman, or an official acting as Chairman; review by OIRA under Executive Order 12866; and compliance with the applicable requirements for regulations or rules.

II. Rulemaking Analyses and Notices

A. Regulatory Procedures

Under the Administrative Procedure Act, an agency may waive notice and comment procedures if an action is an interpretative rule, a general statement of policy, or a rule of agency organization, procedure, or practice. *See* 5 U.S.C. 553(b)(A). This rule describes the internal process that CEQ will follow to comply with the requirements specified in E.O. 13891 when issuing guidance documents as defined by the

[1] 84 FR 55235 (Oct. 15, 2019).

[2] OMB M–20–02 is available at *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*.

[3] E.O. 13891 section 2(b) lists the following as exclusions to the definition of guidance document. 84 FR at 55235–36.

[4] CEQ's website, *whitehouse.gov/ceq/resources*, includes links to CEQ guidance documents and resources, some of which are provided on *nepa.gov* and *sustainability.gov*.

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E.O. Because this rule is one of agency organization, procedure, or practice, it is exempt from the requirement to provide prior notice and opportunity for public comment.

B. Regulatory Planning and Review (E.O. 12866 and E.O. 13563)

E.O. 12866 provides that OIRA will review all significant rules. E.O. 13563 reaffirms the principles of E.O. 12866, calling for improvements in the Federal government's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory objectives. OMB determined that this final rule does not meet the requirements for a significant regulatory action under E.O. 12866, as supplemented by E.O. 13563, and therefore it was not subject to review.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, as amended (RFA), 5 U.S.C. 601 *et seq.,* and E.O. 13272 do not apply to this rulemaking because it is not subject to the notice and comment requirements of 5 U.S.C. 553(b).

D. Unfunded Mandates Reform Act

A statement containing the information required by the Unfunded Mandates Reform Act, 2 U.S.C. 1531 *et seq.,* is not required. This rule will not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year, and it will not have a significant or unique effect on State, local, or Tribal governments, or the private sector.

E. Reducing Regulation and Controlling Regulatory Costs (E.O. 13771)

This rule is not an E.O. 13771 regulatory action because this rule is not significant under E.O. 12866.

F. Federalism (E.O. 13132)

Under the criteria in section 1 of E.O. 13132, this rule will not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement because it will not substantially and directly affect the relationship between the Federal and State governments.

G. National Environmental Policy Act

The purpose of this rulemaking is to formalize the CEQ's administrative procedures for issuing guidance documents, as required by E.O. 13891. CEQ has determined that the final rule is a non-major Federal action under the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.,* and would not have any effect on the environment because it merely outlines internal CEQ administrative procedures and does not authorize any activity or commit resources to a project that may affect the environment.

H. Paperwork Reduction Act

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This rule will not impose recordkeeping or reporting requirements on State, local, or Tribal governments, individuals, businesses, or organizations.

List of Subjects in 40 CFR Part 1519

Administrative practice and procedure, Guidance.

Mary B. Neumayr,
Chairman.

■ For the reasons stated in the preamble, the Council on Environmental Quality adds 40 CFR part 1519 as follows:

PART 1519—GUIDANCE DOCUMENTS

Sec.
1519.1 Purpose.
1519.2 Guidance document procedures.
1519.3 Procedures for the public to request withdrawal or modification of a guidance document.
1519.4 Significant guidance documents.

Authority: 42 U.S.C. 4321–4347; 42 U.S.C. 4371–4375; and E.O. 13891, 84 FR 55235.

§ 1519.1 Purpose.

(a) This part implements Executive Order 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' and reflects the policies described in that order. The provisions in this part address the Council on Environmental Quality's procedures for the development and issuance of agency guidance documents. This part explains what constitutes guidance documents, and sets forth the minimum requirements for guidance documents, the procedures to request withdrawal or modification of guidance documents, and the additional requirements and procedures for significant guidance documents.

(b) This part is intended to improve the internal management of the Council on Environmental Quality. It is not intended to and does not create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its agencies or other entities, its officers or employees, or any other person.

(c) If Executive Order 13891 or any provision thereof is rescinded or superseded, this part remains in effect.

§ 1519.2 Guidance document procedures.

(a) *Definition of guidance documents.* For purposes of this part, guidance documents are agency statements of general applicability, intended to have future effect on the behavior of regulated parties, that set forth a policy on a statutory, regulatory, or technical issue, or an interpretation of a statute or regulation.

(b) *Documents excluded from the definition of guidance documents.* Guidance documents do not include:

(1) Agency statements of specific, rather than general, applicability.

(2) Agency statements that do not set forth a policy on a statutory, regulatory, or technical issue or an interpretation of a statute or regulation.

(3) Legislative rules promulgated under 5 U.S.C. 553 (or similar statutory provisions), or exempt from rulemaking requirements under 5 U.S.C. 553(a).

(4) Rules of agency organization, procedure, or practice that are not anticipated to have substantial future effect on the behavior of regulated parties or the public.

(5) Decisions of agency adjudication.

(6) Documents or agency statements that are directed solely to the Council on Environmental Quality or other agencies (or personnel of such agencies) that are not anticipated to have substantial future effect on the behavior of regulated parties or the public.

(7) Legal briefs and other court filings.

(8) Legal advice or opinions from the Council on Environmental Quality's Office of the General Counsel.

(9) Categories of guidance documents made exempt from Executive Order 13891 by the Administrator of the Office of Management and Budget's Office of Information and Regulatory Affairs through memoranda issued pursuant to section 4(b) of Executive Order 13891.

(c) *Elements of guidance documents.* In general, each guidance document must:

(1) Provide the title of the guidance document;

(2) Provide a unique document identification number;

(3) Identify the Council on Environmental Quality and any office, as appropriate, issuing the guidance document;

(4) Include the date of issuance;

(5) Include the term ''guidance'';

(6) Include a disclaimer clarifying that it does not have the force and effect of law; is not meant to bind the public in any way; and is intended only to provide clarity to the public regarding

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existing requirements under the law or agency policies. When a guidance document is binding because the law authorizes binding guidance or because a contract incorporates the guidance, the Council on Environmental Quality must modify the disclaimer to reflect accordingly;

(7) If it is a revision to or a replacement of a previously issued guidance document, identify the guidance document that it revises or replaces;

(8) Include a short summary of the subject matter covered in the guidance document at the top of the document;

(9) Identify the activities to which and the persons to whom the guidance document applies;

(10) Include the citation to the statutory provision or regulation to which the guidance document applies or which it interprets; and

(11) Be posted on the Council on Environmental Quality's website.

(d) *Review and clearance.* The Office of the General Counsel must review and clear all proposed guidance documents before issuance.

§ 1519.3 Procedures for the public to request withdrawal or modification of a guidance document.

(a) Any member of the public may petition the Council on Environmental Quality to withdraw or modify a guidance document.

(b) The petitioner must submit the request for the withdrawal or modification of a guidance document in writing to the Office of the General Counsel. The petition must contain a statement of the reasons for the petition and any supporting documents to support the petitioner's request.

(c) Upon receipt of a petition for withdrawal or modification of a guidance document, the Office of the General Counsel will consult with the relevant offices and coordinate the response to the petition.

(d) The Council on Environmental Quality should respond to a petition in writing, including electronically, within 90 days of receipt of a petition. The response should state whether the petition is granted, granted in part and denied in part, denied, or provisionally denied for lack of adequate information. If the petition is provisionally denied for lack of adequate information, the response should indicate what additional information is necessary to adjudicate the petition. The Office of the General Counsel should respond to the petition in writing no later than 90 days after receipt of the necessary additional information. The response should state whether the petition is granted, granted in part and denied in part, or denied.

(e) The Council on Environmental Quality may consider in a coordinated manner or provide a coordinated response to similar petitions for withdrawal or modification.

(f) The Council on Environmental Quality need not respond to petitions under this part for withdrawal or modification of documents that do not meet the definition of a guidance document.

§ 1519.4 Significant guidance documents.

(a) *Significant guidance documents definition.* For the purposes of this section, significant guidance documents are guidance documents that may be reasonably anticipated to:

(1) Lead to an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles of Executive Order 12866.

(b) *Actions the Council on Environmental Quality will take before issuing significant guidance documents.* When the Office of Management and Budget's Office of Information and Regulatory Affairs determines that a guidance document is a significant guidance document, the Council on Environmental Quality must:

(1) Submit the guidance document for review by the Office of Information and Regulatory Affairs under Executive Order 12866;

(2) Publish the draft significant guidance document in the **Federal Register** for a public notice and comment period of at least 30 days;

(i) This provision will not apply if the Council on Environmental Quality for good cause finds that notice and public comment is impracticable, unnecessary, or contrary to the public interest.

(ii) If such a finding is made, the Council on Environmental Quality must incorporate such a finding and a brief statement of its reasoning into the significant guidance document.

(3) Obtain approval on a non-delegable basis from the Chairman or an official who is serving in an acting capacity as the Chairman.

(4) Provide a public response to major concerns raised in comments on the draft significant guidance document.

(5) Announce the availability of the final significant guidance document.

(6) Comply with the applicable requirements for regulations or rules, including significant regulatory actions, set forth in Executive Orders 12866, ''Regulatory Planning and Review,'' 13563, ''Improving Regulation and Regulatory Review,'' 13609, ''Promoting International Regulatory Cooperation,'' 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' and 13777, ''Enforcing the Regulatory Reform Agenda.''

(c) *Exemption.* This section will not apply if the Chairman or an official who is serving in an acting capacity as the Chairman of the Council on Environmental Quality and the Administrator of the Office of Information and Regulatory Affairs agree that exigency, safety, health, or other compelling cause warrants an exemption from some or all requirements.

[FR Doc. 2020–28881 Filed 1–7–21; 8:45 am]

BILLING CODE 3225–F1–P

FEDERAL PERMITTING IMPROVEMENT STEERING COUNCIL

40 CFR Chapter IX

[Agency Docket Number 2020–001]

RIN 3121–AA01

Adding Mining as a Sector of Projects Eligible for Coverage Under Title 41 of the Fixing America's Surface Transportation Act

AGENCY: Federal Permitting Improvement Steering Council.

ACTION: Final rule.

SUMMARY: The Federal Permitting Improvement Steering Council (Permitting Council) has voted to add mining as a sector with infrastructure projects eligible for coverage under Title 41 of the Fixing America's Surface Transportation Act (FAST–41). A new part will be included in the Code of Federal Regulations that adds mining to the list of statutory FAST–41 sectors. The addition of mining as a FAST–41 sector will allow qualified mining infrastructure projects to become FAST–41 covered projects. FAST–41 coverage will help Federal agencies coordinate their environmental and project review efforts to improve the timeliness, efficiency, predictability, and transparency of the decision-making processes associated with covered

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Rules and Regulations

Federal Register
Vol. 86, No. 3
Wednesday, January 6, 2021

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 760

[Docket ID: FSA–2020–0011]

RIN 0560–AI55

Agricultural Disaster Indemnity Programs

AGENCY: Farm Service Agency (FSA), Department of Agriculture (USDA).

ACTION: Final rule.

SUMMARY: This rule establishes the Quality Loss Adjustment (QLA) Program to provide assistance to producers who suffered eligible crop quality losses due to hurricanes, excessive moisture, floods, drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. It also amends the provisions for the Wildfire and Hurricane Indemnity Program Plus (WHIP+) to be consistent with the Further Consolidated Appropriations Act, 2020, by adding excessive moisture and drought occurring in 2018 and 2019 as qualifying disaster events and clarifying eligibility of sugar beets. The changes to WHIP+ were self-enacting and were previously implemented by FSA.

DATES:

Effective date: January 6, 2021.

Comment due date: Comments are due by March 8, 2021.

ADDRESSES: We invite you to submit comments on this rule. You may submit comments by either of the following methods, although FSA prefers that you submit comments electronically through the Federal eRulemaking Portal:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and search for Docket ID FSA–2020–0011. Follow the instructions for submitting comments.
- *Mail:* Director, SND, FSA, U.S. Department of Agriculture, 1400 Independence Avenue SW, Stop 0522, Washington, DC 20250–0522. In your comment, specify the docket ID FSA–2020–0011.

Comments will be available for viewing online at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Kimberly Graham at (202) 720–6825 (voice); or by email at: *kimberly.graham@usda.gov*. Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice).

SUPPLEMENTARY INFORMATION:

Background

The Additional Supplemental Appropriations for Disaster Relief Act, 2019 (''Disaster Relief Act,'' Pub. L. 116–20) provided disaster assistance for necessary expenses related to losses of crops (including milk, on-farm stored commodities, crops prevented from planting in 2019, and harvested adulterated wine grapes), trees, bushes, and vines, as a consequence of hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. The Further Consolidated Appropriations Act, 2020 (Pub. L. 116–94), makes several changes to the provisions of the Disaster Relief Act, including:

- Specifying that assistance would be provided for crop quality losses;
- Adding excessive moisture as a qualifying disaster event;
- Adding drought as a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year; and
- Providing that sugar beet losses in 2018 and 2019 would be paid through cooperative processors (to be paid to producer members as determined by such processors).

This rule implements those provisions of the Further Consolidated Appropriations Act, 2020, by establishing the QLA Program to provide assistance for crop quality losses and amending the WHIP+ regulations to be consistent with the changes to qualifying disaster events and eligibility of sugar beet losses.

QLA Program

This rule establishes the QLA Program to provide disaster assistance for crop quality losses that were a consequence of hurricanes, excessive moisture, floods, qualifying drought, tornadoes, typhoons, volcanic activity, snowstorms, or wildfires occurring in calendar years 2018 and 2019. Eligible crops generally include crops for which FCIC crop insurance coverage or Noninsured Crop Disaster Assistance Program (NAP) coverage is available; however, value loss crops,[1] honey, and maple sap are not eligible. The QLA Program provides assistance for losses to crops that were sold or fed to livestock or are in storage; crops that were destroyed are not eligible. Assistance will be based on a producer's harvested affected production of an eligible crop that had a quality loss due to a qualifying disaster event and had at least a 5 percent quality loss due to all eligible disaster events.

Qualifying disaster events include hurricanes, floods, tornados, typhoons, volcanic activity, snowstorms, wildfires, excessive moisture, qualifying drought, and related conditions that occurred in the 2018 or 2019 calendar year. Assistance is available for eligible producers in counties that received a qualifying Presidential Emergency Disaster Declaration (declaration) or Secretarial Disaster Designation (designation) due to one or more of the qualifying disaster events or a related condition. As required by the Further Consolidated Appropriations Act, 2020, drought is only a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year (referred to as ''qualifying drought'' in this rule). Only producers in those counties that received a disaster declaration or designation qualify for the QLA Program based on the declaration or designation. Producers in counties that did not receive a qualifying declaration or designation may still apply; however, they must also provide supporting documentation to establish that the crop was directly affected by a qualifying disaster event and suffered the same

[1] Value loss crops include aquaculture, floriculture, mushrooms, ginseng root, ornamental nursery, sea grass and sea oats, Christmas trees, and turfgrass sod.

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minimum loss as required by a crop in a disaster declared or designated county. Lists of counties with Presidential Emergency Disaster Declarations and Secretarial Disaster Designations for all qualifying disaster events for 2018 and 2019 are available at *farmers.gov/quality-loss.*

FSA recognizes that a crop may suffer quality losses due to multiple disaster events in a single crop year, and the portion of a crop's quality loss that can be attributed to a specific disaster event may be difficult to determine. Therefore, while a qualifying disaster event must have caused at least a portion of the affected production's quality loss, FSA will consider the total quality loss caused by all eligible disaster events for eligibility and payment calculation purposes. Eligible disaster events for the QLA Program include those listed for NAP in 7 CFR 1437.10, except that the QLA Program does not cover losses due to insect infestation.

The QLA Program does not cover losses due to disaster events occurring after a crop was harvested or due to crop deterioration while in storage. Quality losses that could have been mitigated using good farming practices are not eligible. For example, if a producer's corn crop received a quality discount due to high moisture content, the producer could have mitigated that quality loss by using best practices for drying and storing the crop; therefore, that producer's quality loss due to high moisture is not eligible. The QLA Program does not provide assistance for losses that cannot be determined to have occurred or for losses for which a notice of loss was previously disapproved by FSA, RMA, or an approved insurance provider selling and servicing Federal crop insurance policies unless that notice of loss was disapproved solely because it was filed after the applicable deadline.

The QLA Program does not provide assistance for certain quality losses that were already compensated under a Federal crop insurance plan, NAP, or WHIP+. This includes losses to affected production of:

- Multiple market crops already compensated under crop insurance or WHIP+;
- Crops for which production used to calculate a crop insurance indemnity or WHIP+ payment was adjusted based on a comparison of the producer's sale price to the FCIC established price;
- Crops that received a crop insurance indemnity, NAP payment, or WHIP+ payment based on the quantity of production that was considered unmarketable; and
- Crops for which production was reported as salvage value or secondary use.

The QLA Program also excludes quality losses to sugar beets that were compensated through cooperative agreements with cooperative processors.

Affected production of a subsequent crop grown on double cropped acreage is only eligible if the crop has been approved as an eligible double cropping practice by the FSA State committee.

Application

FSA will accept QLA Program applications from January 6, 2021, through March 5, 2021. To apply, producers must submit a completed QLA Program application either in person, by mail, email, or facsimile to an FSA county office. To be eligible, a producer must submit a complete application, which includes all of the following:

- FSA–898, Quality Loss Adjustment (QLA) Program Application;
- FSA–899, Historical Nutritional Value Weighted Average Worksheet (only for forage crops with verifiable documentation of historical nutrient factors from the 3 preceding crop years);
- FSA–578, Report of Acreage;
- FSA–895, Crop Insurance and/or NAP Coverage Agreement; and
- Required documentation, as discussed below.

The FSA–578, FSA–895, and FSA–899 forms, and other required documentation must be submitted to the producer's county office by March 19, 2021.

If not already on file with FSA, producers must also submit the following eligibility forms for each crop year within 60 days of the date the producer signs the application:

- AD–1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification;
- CCC–902, Farm Operating Plan for Payment Eligibility;
- CCC–941 Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information; and
- CCC–942 Certification of Income from Farming, Ranching and Forestry Operations, if applicable.

Payments will not be made until all necessary eligibility documentation is received. Failure of an applicant to submit documentation timely may result in FSA not issuing a payment or, in the case of legal entities, a reduced payment if the required documentation for one or more members of the entity is not submitted timely.

Required Documentation

To support their applications, producers must submit documentation showing the quality loss and quantity of affected production by March 19, 2021. Documentation of the quality loss (total dollar value loss, grading factors, and nutrient factors, as applicable), must be verifiable. Verifiable documentation is documentation that can be verified by FSA through an independent source; FSA may verify the submitted records with records on file at the warehouse, gin, laboratory, or other entity that received or tested the reported production. Examples of acceptable, verifiable documentation include warehouse grading sheets, settlement sheets, sales receipts, and laboratory test results. Except for grain crops that have been sold, the documentation must be from laboratory tests or analysis completed within 30 days of harvest to be considered acceptable, unless the FSA county committee determines that the record is representative of the condition of the affected production within 30 days of harvest. For grain crops that were sold, the verifiable documentation can be from any time from harvest through the time of sale, unless the FSA county committee determines the record is not representative of the condition within 30 days of harvest. Producers who do not have acceptable, verifiable documentation are ineligible for the QLA Program.

For forage crops, all producers must submit verifiable documentation showing the nutrient factors for the affected production of the crop. Producers must also submit verifiable documentation of the historical nutrient factors for the 3 preceding crop years if available. The type of nutrient factors (such as relative feed value or total digestible nutrients) that must be documented for a particular crop will be determined by the FSA county committee based on the standard practice for the crop in that county. For all crops other than forage crops, producers must submit verifiable documentation of the total dollar value loss due to quality, if available, and verifiable documentation of grading factors due to quality.

Documentation to support the quantity of affected production included on the application must be verifiable for non-forage crops that receive a QLA payment based on the producer's total dollar value loss. For all other crops (non-forage crops without a producer's total dollar value loss and all forage crops), records to support the quantity of affected production must be reliable. Reliable production records means evidence provided by the participant that is used to substantiate the amount of production reported when verifiable

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records are not available, including copies of receipts, ledgers of income, income statements of deposit slips, register tapes, invoices for custom harvesting, and records to verify production costs, contemporaneous measurements, truck scale tickets, and contemporaneous diaries that are determined acceptable by the FSA county committee. To determine whether the records are acceptable, the FSA county committee will consider whether they are consistent with the records of other producers of the crop in that area.

Payment Calculation

QLA Program payments will be calculated using different formulas based on the type of crop (forage or non-forage) and based on the type of documentation submitted. All QLA payments, regardless of whether they are forage or non-forage, and the type of documentation submitted, will be calculated using a 70 percent payment factor. Payments calculated based on a county average loss, as described below, will be subject to an additional payment factor of 50 percent.

For forage crops with verifiable documentation of both the nutrient factors for the affected production and historical nutrient factors for the 3 preceding crop years, payment will be equal to the amount of the producer's total affected production multiplied by the producer's verifiable percentage of loss, multiplied by the average market price determined by FSA, multiplied by 70 percent. The producer's verifiable percentage of loss is determined by comparing the nutrient factor test results for the affected production to the average from the 3 preceding crop years, as documented on the FSA–899, Historical Nutritional Value Weighted Average Worksheet. The average market price for the QLA Program is the price used for NAP established according to 7 CFR 1437.12.

For forage crops with verifiable documentation of nutrient factors for the affected production but without historical nutrient factors for the 3 preceding crop years, the payment will be equal to the amount of the producer's total affected production multiplied by the county average percentage of loss, multiplied by the average market price determined by FSA, multiplied by 70 percent, multiplied by 50 percent.

For affected production of non-forage crops with verifiable documentation of the total dollar value loss due to quality, the QLA Program payment is equal to the producer's total dollar value loss on the affected production of the crop, multiplied by a payment factor of 70 percent.

For non-forage crops without verifiable documentation of a total dollar value loss but with verifiable documentation of grading factors due to quality, the payment will be equal to the amount of producer's affected production multiplied by the county average loss per unit of measure, multiplied by 70 percent, multiplied by 50 percent.

To determine the county average percentage of loss (for forage crops) or the county average loss per unit of measure (for non-forage crops), FSA will calculate the average loss for a crop based on losses of producers applying with verifiable documentation of historical nutritional factors (for forage crops) or the total dollar value loss (for non-forage crops) if at least 5 eligible producers submitted that documentation in the county. If less than 5 eligible producers in a county submit verifiable documentation of their historical nutritional factors or their total dollar value loss, FSA will determine a county average percentage of loss or county average loss per unit of measure based on the best available data, including losses of other QLA Program participants in contiguous counties. If sufficient data is still not available after considering other sources, FSA may determine that a county average cannot be calculated and producers in that county applying for payment under the applicable calculation are ineligible.

Payments for the QLA Program will not be issued until the application period has ended in order to allow FSA to determine the county average losses, as well as the total payments requested under the QLA Program. The Further Consolidated Appropriations Act, 2020 provides funding for the QLA Program to be available until December 31, 2021, in an amount equal to the remaining funds provided under the Bipartisan Budget Act of 2018 (Pub. L. 115–123) for losses due to Hurricanes Harvey, Irma, Maria, and other hurricanes and wildfires occurring in calendar year 2017,[2] and remaining funds provided under the Disaster Relief Act for losses due to Hurricanes Michael and Florence, other hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.[3] If the total amount of calculated QLA Program payments exceeds the amount of funding available, FSA will prorate all payments by a national factor.

A person or legal entity, other than a joint venture or general partnership, is eligible to receive, directly or indirectly, up to $125,000 per crop year in QLA Program payments. FSA will use the notification of interest provisions in 7 CFR 1400.107 and payment attribution provisions in 7 CFR 1400.105 for attributing and limiting payments to persons and legal entities. FSA will also use provisions in 7 CFR 1400.104 when changes in a farming operation result in an increase in persons to which payment limitation applies. Payments made to a joint operation (including a general partnership or joint venture) cannot exceed $250,000 per person or legal entity that comprise the ownership of the joint operation. Payments made to a legal entity will be reduced proportionately by an amount that represents the direct or indirect ownership in the legal entity by any person or legal entity that has otherwise reached the maximum payment limitation. These rules for attributing and limiting payments are consistent with the programs FSA administers on behalf of the Commodity Credit Corporation.

A person or legal entity, other than a joint venture or general partnership, is ineligible for a 2018, 2019, or 2020 payment if the person's or legal entity's average adjusted gross income (AGI) is more than $900,000, unless at least 75 percent of that person's or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. The average AGI for each of the program years 2018, 2019, or 2020, is determined using the average of the adjusted gross incomes for the 3 taxable years preceding the most immediately preceding taxable year. For example, for the 2019 program year, the producer's AGI would be based on the 2015, 2016, and 2017 tax years. If at least 75 percent of the person's or legal entity's AGI is derived from farming, ranching, or forestry-related activities and the participant provides the required certification and documentation, the person or legal entity is eligible to

[2] FSA provided assistance for losses due to Hurricanes Harvey, Irma, Maria, and other hurricanes and wildfires occurring in calendar year 2017 through the 2017 Wildfires and Hurricanes Indemnity Program (2017 WHIP) (final rule published July 18, 2018, 83 FR 33795–33809) and the Florida Citrus Recovery Grant Program.

[3] FSA has previously provided assistance for losses due to Hurricanes Michael and Florence, other hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019 through the Wildfires and Hurricanes Indemnity Program Plus (WHIP+), On-Farm Storage Loss Program, and Milk Loss Program (final rule published September 13, 2019, 84 FR 48518–48537), as well as through several grants and cooperative agreements with sugar beet cooperatives.

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receive QLA Program payments up to the applicable payment limitation noted above. With respect to joint ventures and general partnerships, this AGI provision will be applied to each member of the joint venture and general partnership.

Requirement to Purchase Crop Insurance or NAP Coverage

The Disaster Relief Act requires all participants who receive QLA Program payments to purchase crop insurance or NAP coverage for the next 2 available crop years. The latest year for meeting compliance with this provision will be the 2023 crop year. In other words, if the 2 consecutive years of coverage are not met by 2023 coverage year, the participant is ineligible for and must refund QLP Program payments. Participants must obtain crop insurance or NAP, as may be applicable, at the 60 percent coverage level or higher. In situations where crop insurance is unavailable for a crop, the Disaster Relief Act requires that a QLA Program participant obtain NAP coverage. Section 1001D of the Food Security Act of 1985 (1985 Farm Bill) provides that a person or entity with AGI in amount greater than $900,000 is not eligible to participate in NAP; however, producers with an AGI greater than $900,000 may be eligible for the QLA Program if at least 75 percent of that person's or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. Accordingly, in order to reconcile this restriction in the 1985 Farm Bill and the Disaster Relief Act's requirement to obtain NAP or crop insurance coverage, QLA Program participants may meet the Disaster Relief Act's purchase requirement by purchasing Whole-Farm Revenue Protection crop insurance coverage, if eligible, or they may pay the applicable NAP service fee and premium for the 60 percent coverage level despite their ineligibility for a NAP payment. In other words, the service fee and premium must be paid even though no NAP payment may be made because the AGI of the person or entity exceeds the 1985 Farm Bill limitation.

The crop insurance and NAP coverage requirements are specific to the crop and county (county where the crop is physically located for insurance and administrative county for NAP) for which QLA Program payments are paid. This means that a producer is required to purchase crop insurance or NAP coverage for the crop in the county for which the producer was issued a QLA Program payment. Producers who receive a payment on a crop in a county and who have the crop or crop acreage in subsequent years, as provided in this rule, and who fail to obtain the 2 years of crop insurance or NAP coverage must refund all QLA Program payments for that crop in that county with interest from the date of disbursement. This is a condition of payment eligibility specified by Disaster Relief Act and is therefore not subject to partial payment eligibility or other types of equitable relief. Producers who were paid under the QLA Program for a crop in a county but do not plant that crop in a subsequent year are not subject to the crop insurance or NAP purchase requirement. WHIP+ participants who already met the requirement to purchase crop insurance or NAP coverage as specified in 7 CFR 760.1517 are considered to have also met the requirement to purchase crop insurance or NAP coverage for QLA Program purposes, and they are not required to obtain additional years of crop insurance or NAP coverage as a result of also receiving a QLA Program payment for that crop.

Applicable general eligibility requirements, including recordkeeping requirements and required compliance with HELC and Wetland Conservation provisions, are similar to those for the previous ad hoc crop disaster programs and current permanent disaster programs. All information provided to FSA for program eligibility and payment calculation purposes, including production records, is subject to spot check.

WHIP+

FSA, on behalf of the Secretary of Agriculture, previously implemented provisions of the Disaster Relief Act by establishing WHIP+ through a final rule published on September 19, 2019 (84 FR 48518–48537). The Disaster Relief Act provided assistance for losses of crops, trees, bushes, and vines, as a consequence of hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. WHIP+ covers only production losses of crops except in specific circumstances discussed previously in this document when the producer may have also been compensated for quality losses.

This rule amends 7 CFR 760.1500(c) and the definition of ''qualifying disaster event'' in § 760.1502 to include excessive moisture and qualifying drought. As under the QLA Program, drought is only considered a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year. This rule adds definitions of ''qualifying drought'' and ''U.S. Drought Monitor'' in § 760.1502.

The addition of these qualifying disaster events for WHIP+ was self-enacting as the text in the law clearly specified the required changes without need for interpretation; therefore, FSA began the sign-up period for losses due to excessive moisture and qualifying drought on March 23, 2020, and sign-up ended on October 30, 2020. Producers applying for WHIP+ assistance for losses due to excessive moisture or qualifying drought were required to meet all requirements in 7 CFR part 760, subpart O, including the requirement to purchase crop insurance for 2 years as specified in § 760.1517.

The Further Consolidated Appropriations Act, 2020 also directed the Secretary to pay sugar beet losses in 2018 and 2019 through cooperative processors. FSA has established cooperative agreements with sugar beet processors; those processors will be responsible for distributing assistance to their members. This rule amends the eligibility provisions in § 760.1517 to specify that members of cooperatives are not eligible for a WHIP+ payment for sugar beet losses.

FSA is also updating § 760.1510(a) to reflect the application deadline of October 30, 2020, and correcting references in §§ 760.1508(c) and (f) and 760.1511(a)(6).

Notice and Comment and Effective Date

The Administrative Procedure Act (5 U.S.C. 553) provides that the notice and comment and 30-day delay in the effective date provisions do not apply when the rule involves a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts. This rule involves programs for payments to certain agricultural commodity producers and therefore falls within that exemption. Due to the nature of the rule and the need to implement the regulations expeditiously to provide assistance to agricultural producers, FSA finds that notice and public procedure are contrary to the public interest. Therefore, even though this rule is a major rule for purposes of the Congressional Review Act, FSA is not required to delay the effective date for 60 days from the date of publication to allow for Congressional review. Therefore, this rule is effective upon publication in the **Federal Register**.

Executive Orders 12866, 13563, 13771 and 13777

Executive Order 12866, ''Regulatory Planning and Review,'' and Executive

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Order 13563, ''Improving Regulation and Regulatory Review,'' direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13777, ''Enforcing the Regulatory Reform Agenda,'' established a Federal policy to alleviate unnecessary regulatory burdens on the American people.

The Office of Management and Budget (OMB) designated this rule as economically significant under Executive Order 12866, and therefore, OMB has reviewed this rule. The costs and benefits of this rule are summarized below. The full cost benefit analysis is available on *regulations.gov.*

Executive Order 13771, titled Reducing Regulation and Controlling Regulatory Costs, was issued on January 30, 2017. The OMB guidance in M–17–21, dated April 5, 2017, specifies that ''transfers'' are not covered by Executive Order 13771 but that requirements imposed apart from transfers in transfer rules may qualify as costs or cost savings under Executive Order 13771, for example the information collection requirements in this rule. This rule is not subject to the requirements of E.O. 13771 because this rule results in no more than de minimis costs.

Cost Benefit Analysis Summary

WHIP+ initially provided approximately $3 billion in supplemental assistance to producers for qualifying agricultural production losses. In the Further Consolidated Appropriations Act, 2020, Congress changed provisions of the Disaster Relief Act as follows:

1. Extended eligibility under WHIP+ to also cover [4]—

a. Crop production losses due to excessive moisture in calendar years 2018 and 2019;

b. Crop production losses due to drought in calendar years 2018 and 2019 if the area within the county in which the loss occurred was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year;

2. Provided assistance for sugar beet losses in 2018 and 2019 to be paid through cooperative processors; [5] and

3. Authorized assistance for crop quality losses that occurred in calendar years 2018 and 2019 through the QLA Program (implemented by this rule).

Eligible crops under the QLA Program include crops for which Federal crop insurance or NAP coverage is available. To be eligible for the QLA Program, a crop must have suffered a quality loss due to a qualifying disaster event and had at least a 5 percent quality discount due to a combination of the qualifying disaster event and any other QLA-eligible causes of loss. Eligible crops may have been sold, fed on farm to livestock, or been in storage at the time of application.

USDA estimates the Further Consolidated Appropriations Act, 2020 will provide approximately $950 million for the continuation of disaster assistance program delivery, including payments to eligible producers for production losses due to excessive moisture and extreme drought under WHIP+ and for quality losses covered by the QLA Program. Of that amount, USDA anticipates that an estimated $500 million will be available for QLA Program payments. However, the amount of funding ultimately available for the QLA Program will not be known until other payments, for example for excessive moisture and drought under WHIP+, are finalized.

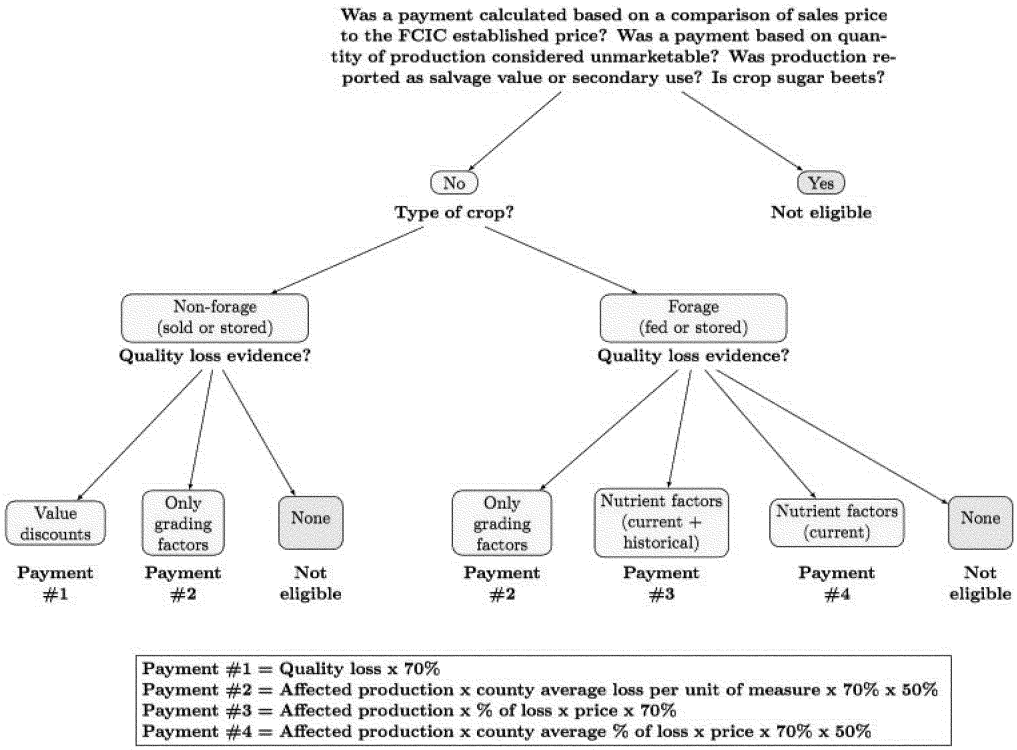
The QLA Program payment calculation depends on several factors, as shown in Figure 1. A producer is ineligible for a QLA Program payment if they received a crop insurance indemnity, NAP payment, or WHIP+ payment for a crop that was unmarketable, sold for salvage value or secondary use, or if the payment was based on a comparison of the sales price of the affected production and the applicable reference price. Otherwise, payments or benefits received under the Federal crop insurance, NAP or WHIP+ do not affect a producer's eligibility or payment received from the QLA Program. The payment calculation depends on the use of production (non-forage or forage) and evidence at hand of the crop quality loss. Producers who do not have evidence of the quality loss are ineligible.

[4] The addition of excessive moisture and certain drought conditions as qualifying causes of loss under WHIP+ is specific, not open to interpretation, and is therefore self-enacting. Accordingly, the provision was previously implemented. FSA began the sign-up period on March 23, 2020, and sign-up ended on October 30, 2020.

[5] Assistance for sugar beet losses for members of cooperative processors is provided through a separate program.

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Figure 1. Eligibility and Payment Calculation



Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA, Pub. L. 104–121), generally requires an agency to prepare a regulatory flexibility analysis of any rule whenever an agency is required by the Administrative Procedure Act or any other law to publish a proposed rule, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule is not subject to the Regulatory Flexibility Act because USDA is not required by Administrative Procedure Act or any law to publish a proposed rule for this rulemaking.

Environmental Review

The environmental impacts of this final rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and the FSA regulation for compliance with NEPA (7 CFR part 799). The legislative intent for implementing the QLA Program is to provide assistance to producers who suffered eligible crop quality losses due to hurricanes, excessive moisture, floods, drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.

While OMB has designated this rule as ''economically significant'' under Executive Order 12866, ''economic or social effects are not intended by themselves to require preparation of an environmental impact statement'' (see 40 CFR 1502.16(b)), when not interrelated to natural or physical environmental effects.

For this rule, the FSA Categorical Exclusions found in 7 CFR 799.31 apply, specifically 7 CFR 799.31(b)(6)(iii), (iv), and (vi) (that is, § 799.31(b)(6)(iii) Financial assistance to supplement income, manage the supply of agricultural commodities, or influence the cost or supply of such commodities or programs of a similar nature or intent (that is, price support programs); § 799.31(b)(6)(iv) Individual farm participation in FSA programs where no ground disturbance or change in land use occurs as a result of the proposed action or participation; and § 799.31(b)(6)(vi) Safety net programs administered by FSA). No Extraordinary Circumstances (7 CFR 799.33) exist.

For the outlined reasons, FSA has determined that the implementation of the QLA Program and the participation in the QLA Program does not constitute a major Federal action that would significantly affect the quality of the human environment, individually or cumulatively. Therefore, FSA will not prepare an environmental assessment or environmental impact statement for this regulatory action.

Executive Order 12372

Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' requires consultation with State and local officials that would be directly affect by proposed Federal financial assistance. The objectives of the Executive order are to foster an intergovernmental partnership and a strengthened federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance and direct Federal development. For reasons specified in the final rule related notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs and activities

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within this rule are excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, ''Civil Justice Reform.'' This rule will not preempt State or local laws, regulations, or policies unless they represent an irreconcilable conflict with this rule. The rule will not have retroactive effect. Before any judicial action may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR parts 11 and 780 must be exhausted.

Executive Order 13132

This rule has been reviewed under Executive Order 13132, ''Federalism.'' The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, except as required by law. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

The USDA's Office of Tribal Relations (OTR) has assessed the impact of this rule on Indian Tribes and determined that this rule may have significant Tribal implications that require ongoing adherence to Executive Order 13175. OTR notes that the programs are similar to programs that have been administered by FSA and RMA in the past; having not heard any concerns regarding the administration of these in the past, and the fact that provisions are mandated in the Disaster Relief Act, OTR recommended that consultation is not required at this time. Tribes can request consultation at any time. FSA will work with OTR to ensure meaningful consultation is provided where changes, additions, and modifications identified in this rule are not expressly mandated by law.

The Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104–4) requires Federal agencies to assess the effects of their regulatory actions on State local, and Tribal governments or the private sector. Agencies generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures of $100 million or more in any 1 year for State, local, or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates, as defined in Title II of UMRA, for State, local, and Tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, FSA submitted the QLA Program information collection request to OMB for emergency approval. OMB approved the 6-month emergency information collection.

E-Government Act Compliance

FSA is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Federal Assistance Programs

The titles and numbers of the Federal Domestic Assistance Program found in the Catalog of Federal Domestic Assistance to which this rule applies are:

10.129—Wildfire and Hurricanes Indemnity Program Plus
10.133—Quality Loss Adjustment Program

List of Subjects in 7 CFR Part 760

Dairy products, Indemnity payments, Reporting and recordkeeping requirements.

For the reasons discussed above, FSA amends 7 CFR part 760 as follows:

PART 760—INDEMNITY PAYMENT PROGRAMS

■ 1. Revise the authority citation for part 760 to read as follows:

Authority: 7 U.S.C. 4501 and 1531; 16 U.S.C. 3801, note; 19 U.S.C. 2497; Title III, Pub. L. 109–234, 120 Stat. 474; Title IX, Pub. L. 110–28, 121 Stat. 211; Sec. 748, Pub. L. 111–80, 123 Stat. 2131; Title I, Pub. L. 115–123, 132 Stat. 65; Title I, Pub. L. 116–20, 133 Stat. 871; and Division B, Title VII, Pub. L. 116–94, 133 Stat. 2658.

Subpart O—Agricultural Disaster Indemnity Programs

§ 760.1500 [Amended]

■ 2. In § 760.1500(c), remove the words ''and wildfires'' and add ''wildfires, excessive moisture, and qualifying drought'' in their place.

■ 3. Amend § 760.1502 as follows:

■ a. In the definition of ''Qualifying disaster event'', in paragraph (2) of remove the word ''wildfire'' and add ''wildfire, excessive moisture, qualifying drought'' in its place; and

■ b. Add the definitions of ''Qualifying drought'' and ''U.S. Drought Monitor'' in alphabetical order.

The additions read as follows:

§ 760.1502 Definitions.

* * * * *

Qualifying drought means an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year.

* * * * *

U.S. Drought Monitor is a system for classifying drought severity according to a range of abnormally dry to exceptional drought. It is a collaborative effort between Federal and academic partners, produced on a weekly basis, to synthesize multiple indices, outlooks, and drought impacts on a map and in narrative form. This synthesis of indices is reported by the National Drought Mitigation Center at *http://droughtmonitor.unl.edu.*

* * * * *

■ 4. In § 760.1503, add paragraph (j) to read as follows.

§ 760.1503 Eligibility.

* * * * *

(j) Members of cooperative processors are not eligible for WHIP+ assistance for sugar beet losses.

§ 760.1508 [Amended]

■ 5. Amend § 760.1508 as follows:

■ a. In paragraph (c), remove the cross reference ''paragraph (b)(1)'' and add the cross reference ''paragraph (b)'' in its place; and

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■ b. In paragraph (f), remove the cross reference ''paragraph (b)(1)'' and add cross reference ''paragraph (e)'' in its place.

§ 760.1510 [Amended]

■ 6. In § 760.1510(a), remove the words ''a date that will be announced by the Deputy Administrator'' and add ''October 30, 2020'' in their place.

§ 760.1511 [Amended]

■ 7. In § 760.1511(a)(6), remove the cross reference ''paragraph (f)'' and add cross reference ''paragraph (g)'' in its place.

■ 8. Add subpart R, consisting of §§ 760.1800 through 760.1814, to read as follows:

Subpart R—Quality Loss Adjustment Program

Sec.

760.1800 Applicability.
760.1801 Administration.
760.1802 Definitions.
760.1803 Participant eligibility.
760.1804 Eligibility of affected production.
760.1805 Qualifying disaster events.
760.1806 Ineligible losses.
760.1807 Miscellaneous provisions.
760.1808 General provisions.
760.1809 Payment and adjusted gross income limitation.
760.1810 Time and method of application.
760.1811 Required documentation and verification.
760.1812 Payment calculation.
760.1813 Availability of funds and timing of payments.
760.1814 Requirement to purchase crop insurance or NAP coverage.

§ 760.1800 Applicability.

This subpart specifies the terms and conditions for the Quality Loss Adjustment (QLA) Program. The QLA Program provides disaster assistance for crop quality losses that were a consequence of hurricanes, excessive moisture, floods, qualifying drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.

§ 760.1801 Administration.

(a) The QLA Program is administered under the general supervision of the Administrator, Farm Service Agency (FSA), and the Deputy Administrator for Farm Programs, FSA. The QLA Program is carried out by FSA State and county committees with instructions issued by the Deputy Administrator.

(b) FSA State and county committees, and representatives and their employees, do not have authority to modify or waive any of the provisions of the regulations in this subpart or instructions issued by the Deputy Administrator.

(c) The FSA State committee will take any action required by the regulations in this subpart that the FSA county committee has not taken. The FSA State committee will also:

(1) Correct, or require an FSA county committee to correct, any action taken by the FSA county committee that is not in accordance with the regulations in this subpart; or

(2) Require an FSA county committee to withhold taking any action that is not in accordance with this subpart.

(d) No delegation to an FSA State or county committee precludes the FSA Administrator or the Deputy Administrator from determining any question arising under this subpart or from reversing or modifying any determination made by an FSA State or county committee.

(e) The Deputy Administrator has the authority to:

(1) Permit State and county committees to waive or modify a non-statutory deadline specified in this subpart; and

(2) Delegate authority to FSA State or county committees to make determinations under § 760.1812(f) and (g).

(f) Items of general applicability to program participants, including, but not limited to, application periods, application deadlines, internal operating guidelines issued to FSA State and county offices, prices, and payment factors established under this subpart, are not subject to appeal in accordance with part 780 of this chapter.

§ 760.1802 Definitions.

The following definitions apply to this subpart. The definitions in §§ 718.2 and 1400.3 of this title also apply, except where they conflict with the definitions in this section. In the event of conflict, the definitions in this section apply.

Affected production means the producer's ownership share of harvested production of an eligible crop, adjusted to standard moisture as established by the U.S. Grains Standards Act, a State regulatory agency, or industry standard, that had both:

(1) A quality loss due to a qualifying disaster event; and

(2) At least a 5 percent quality loss due to all eligible disaster events.

Average market price means the average market price determined according to § 1437.12 of this title.

Coverage level means the percentage determined by multiplying the elected yield percentage under a crop insurance policy or NAP coverage by the elected price percentage.

Crop insurance means an insurance policy reinsured by FCIC under the provisions of the Federal Crop Insurance Act, as amended. It does not include private plans of insurance.

Crop insurance indemnity means, for the purpose of this subpart, the payment to a participant for crop losses covered under crop insurance administered by RMA in accordance with the Federal Crop Insurance Act (7 U.S.C. 1501–1524).

Crop year means:

(1) For insurable crops, the crop year as defined according to the applicable crop insurance policy; and

(2) For NAP-eligible crops, the crop year as defined in § 1437.3 of this title.

Eligible crop means a crop for which coverage was available either from FCIC under part 400 of this title, or through NAP under § 1437.4 of this title.

Eligible disaster event means a disaster event that is an eligible cause of loss specified in § 1437.10 of this title, excluding insect infestation.

FCIC means the Federal Crop Insurance Corporation, a wholly owned Government Corporation of USDA, administered by RMA.

FSA means the Farm Service Agency, an agency of USDA.

Grading factor means a factor that describes the physical condition or a feature that is evaluated to determine the quality of the production, such as broken kernels and low-test weight.

Good farming practices means the cultural practices generally recognized as compatible with agronomic and weather conditions and used for the crop to make normal progress toward maturity, as determined by FSA. These practices are:

(1) For conventional farming practices, those generally recognized by agricultural experts for the area, which could include one or more counties; or

(2) For organic farming practices, those generally recognized by the organic agricultural experts for the area or contained in the organic system plan that is in accordance with the National Organic Program specified in part 205 of this title.

Harvested means:

(1) For insurable crops, harvested as defined according to the applicable crop insurance policy;

(2) For NAP-eligible single harvest crops, that a crop has been removed from the field, either by hand or mechanically;

(3) For NAP-eligible crops with potential multiple harvests in 1 year or harvested over multiple years, that the producer has, by hand or mechanically, removed at least 1 mature crop from the field during the crop year; and

(4) For mechanically harvested NAP-eligible crops, that the crop has been

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removed from the field and placed in a truck or other conveyance, except hay is considered harvested when in the bale, whether removed from the field or not.

Insurable crop means an agricultural crop (excluding livestock) for which the producer on a farm is eligible to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501–1524).

Multiple market crop means a crop that is delivered to a single market but can have fresh and processed prices based on grading. For example, a producer may intend to sell all production of an apple crop as fresh production; however, based on grading of the crop at the market, the producer is compensated for some production at the fresh price and for some production at the processing price.

Multiple planting means the planting for harvest of the same crop in more than one planting period in a crop year on different acreage.

NAP means the Noninsured Crop Disaster Assistance Program under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) and part 1437 of this title.

NAP-eligible crop means an agricultural crop for which the producer on a farm is eligible to obtain NAP coverage.

NAP service fee means the amount specified in § 1437.7 of this title that the producer must pay to obtain NAP coverage.

Nutrient factor means a factor determined by a test that measures the nutrient value of a crop to be fed to livestock. Examples include, but are not limited to, relative feed value and total digestible nutrients.

Production means quantity of the crop produced, which is expressed in a specific unit of measure including, but not limited to, bushels or pounds.

QLA Program means the Quality Loss Adjustment Program.

Qualifying disaster event means a hurricane, flood, tornado, typhoon, volcanic activity, snowstorm, wildfire, excessive moisture, qualifying drought, or a related condition that occurred in the 2018 or 2019 calendar year.

Qualifying drought means an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year.

Quality loss means:

(1) For forage crops, a reduction in an applicable nutrient factor for the crop; and

(2) For crops other than forage, a reduction in the total dollar value of the crop due to reduction in the physical condition of the crop indicated by an applicable grading factor.

Related condition means damaging weather or an adverse natural occurrence that occurred as a direct result of a specified qualifying disaster event, such as excessive rain, high winds, flooding, mudslides, and heavy smoke, as determined by the Deputy Administrator. The term does not include insect infestation.

Reliable production record means evidence provided by the participant that is used to substantiate the amount of production reported when verifiable records are not available, including copies of receipts, ledgers of income, income statements of deposit slips, register tapes, invoices for custom harvesting, and records to verify production costs, contemporaneous measurements, truck scale tickets, and contemporaneous diaries that are determined acceptable by the FSA county committee. To determine whether the records are acceptable, the FSA county committee will consider whether they are consistent with the records of other producers of the crop in that area.

RMA means the Risk Management Agency, an agency of USDA.

Salvage value means the dollar amount or equivalent for the quantity of the commodity that cannot be marketed or sold in any recognized market for the crop.

Secondary use means the harvesting of a crop for a use other than the intended use.

Unit of measure means:

(1) For insurable crops, the FCIC-established unit of measure; and

(2) For NAP-eligible crops, the established unit of measure used for the NAP price and yield.

USDA means the U.S. Department of Agriculture.

U.S. Drought Monitor is a system for classifying drought severity according to a range of abnormally dry to exceptional drought. It is a collaborative effort between Federal and academic partners, produced on a weekly basis, to synthesize multiple indices, outlooks, and drought impacts on a map and in narrative form. This synthesis of indices is reported by the National Drought Mitigation Center at *http://droughtmonitor.unl.edu.*

Value loss crop has the meaning specified in subpart D of part 1437 of this title.

Verifiable documentation means evidence that can be verified by FSA through an independent source.

Verifiable percentage of loss is the percentage of loss determined by comparing the applicable nutrient factors for a producer's affected production of a forage crop with the average of such nutrient factors from the 3 preceding crop years, as documented on FSA–899, Historical Nutritional Value Weighted Average Worksheet.

WHIP+ means the Wildfires and Hurricanes Indemnity Program Plus under subpart O of this part.

§ 760.1803 Participant eligibility.

(a) Participants will be eligible to receive a payment under this subpart only if they incurred a loss to an eligible crop due to a qualifying disaster event, as further specified in this subpart.

(b) To be an eligible participant under this subpart, a person or legal entity must be a:

(1) Citizen of the United States;

(2) Resident alien; for purposes of this subpart, resident alien means ''lawful alien'' (see § 1400.3 of this title);

(3) Partnership consisting solely of citizens of the United States or resident aliens; or

(4) Corporation, limited liability company, or other similar organizational structure organized under State law consisting solely of citizens or resident aliens of the United States.

(c) If any person who would otherwise be eligible to receive a payment dies before the payment is received, payment may be released as specified in § 707.3 of this chapter. Similarly, if any person or legal entity who would otherwise have been eligible to apply for a payment dies or is dissolved, respectively, before the payment is applied for, payment may be released in accordance with this subpart if a timely application is filed by an authorized representative. Proof of authority to sign for the deceased producer or dissolved entity must be provided. If a participant is now a dissolved general partnership or joint venture, all members of the general partnership or joint venture at the time of dissolution or their duly authorized representatives must sign the application. Eligibility of such participant will be determined, as it is for other participants, based upon ownership share and risk in producing the crop.

(d) An ownership share is required to be eligible for a payment under this subpart. Growers growing eligible crops under contract for crop owners are not eligible for a payment under this subpart unless the grower is also determined to have an ownership share of the crop. Any verbal or written contract that precludes the grower from having an ownership share renders the

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grower ineligible for payments under this subpart.

(e) A person or legal entity is not eligible to receive assistance under this subpart if FSA determines that the person or legal entity:

(1) Adopted any scheme or other device that tends to defeat the purpose of this subpart or any of the regulations applicable to this subpart;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination under any or all of the following: This subpart and parts 12, 400, 1400, and 1437 of this title.

(f) A person who is ineligible for crop insurance or NAP under § 400.458 or § 1437.16 of this title, respectively, for any year is ineligible for payments under this subpart for the same year.

(g) The provisions of § 718.11 of this chapter, providing for ineligibility for payments for offenses involving controlled substances, apply.

(h) As a condition of eligibility to receive payments under this subpart, the participant must have been in compliance with the Highly Erodible Land Conservation and Wetland Conservation provisions of part 12 of this title for the applicable crop year for which the producer is applying for benefits under this subpart, and must not otherwise be precluded from receiving payments under part 12, 400, 1400, or 1437 of this title or any law.

§ 760.1804 Eligibility of affected production.

(a) To be eligible for the QLA Program, an eligible crop's affected production must have suffered a quality loss due to a qualifying disaster event and had at least a 5 percent quality loss due to all eligible disaster events. Whether affected production of a crop had a 5 percent loss will be determined separately for crops with different crop types, intended uses, certified organic or conventional status, county, and crop year.

(b) Affected production of the following is not eligible for the QLA Program:

(1) Crops that were not grown commercially;

(2) Crops that were intended for grazing or were grazed;

(3) Crops not intended for harvest;

(4) Volunteer crops;

(5) Value loss crops;

(6) Maple sap;

(7) Honey;

(8) By-products resulting from processing or harvesting a crop, such as, but not limited to, cotton seed, peanut shells, wheat or oat straw, or corn stalks or stovers;

(9) First-year seeding for forage production;

(10) Immature fruit crops;

(11) Crops for which FCIC coverage or NAP coverage is unavailable;

(12) Multiple market crops for which the producer previously received a crop insurance indemnity or WHIP+ payment for a quality loss;

(13) Crops for which production used to calculate a crop insurance indemnity or WHIP+ payment was adjusted based on a comparison of the producer's sale price to FCIC established price;

(14) Crops that received a crop insurance indemnity, NAP payment, or WHIP+ payment based on the quantity of production that was considered unmarketable;

(15) Crops for which the producer previously received a crop insurance indemnity, NAP payment, or WHIP+ payment for which production was reported as salvage value or secondary use;

(16) Sugar beets for which a member of a cooperative processor received a payment through a cooperative agreement; and

(17) Crops that were destroyed.

(c) Only affected production from initial crop acreage will be eligible for a QLA Program payment, unless the provisions for subsequent crops in this section are met. All plantings of an annual or biennial crop are considered the same as a planting of an initial crop in tropical regions as defined in part 1437, subpart F, of this title.

(d) In cases where there is double cropped acreage, affected production of each crop may be eligible only if the specific crops are approved by the FSA State committee as eligible double cropping practices in accordance with procedures approved by the Deputy Administrator.

(e) Participants having affected production from multiple plantings may receive payments for each planting only if the planting meets the requirements of part 1437 of this title and all other provisions of this subpart are satisfied.

§ 760.1805 Qualifying disaster events.

(a) A producer is eligible for payments under this subpart only if the producer's affected production of an eligible crop suffered a crop quality loss due to a qualifying disaster event.

(b) A crop quality loss due to a qualifying disaster event must have occurred on acreage that was physically located in a county that received a:

(1) Presidential Emergency Disaster Declaration authorizing public assistance for categories C through G or individual assistance due to a qualifying disaster event occurring in the 2018 or 2019 calendar years; or

(2) Secretarial Disaster Designation for a qualifying disaster event occurring in the 2018 or 2019 calendar years.

(c) A producer with a crop quality loss on acreage not physically located in a county that was eligible under paragraph (b) of this section will be eligible for the QLA Program for losses due to qualifying disaster events only if the producer provides supporting documentation from which the FSA county committee determines that the crop quality loss on the unit was reasonably related to a qualifying disaster event as specified in this subpart. Supporting documentation may include furnishing climatological data from a reputable source or other information substantiating the claim of loss due to a qualifying disaster event.

§ 760.1806 Ineligible losses.

(a) A loss is not eligible under this subpart if any of the following apply:

(1) The cause of loss is determined by FSA to be the result of poor management decisions, poor farming practices, or drifting herbicides;

(2) The loss could have been mitigated using good farming practices, including losses due to high moisture content that could be mitigated by following best practices for drying and storing the crop;

(3) The qualifying disaster event occurred after the crop was harvested;

(4) FSA or RMA have previously disapproved a notice of loss for the crop and disaster event, unless that notice of loss was disapproved solely because it was filed after the applicable deadline; or

(5) The cause of loss was due to:

(i) Conditions or events occurring outside of the applicable growing season for the crop;

(ii) Insect infestation;

(iii) Water contained or released by any governmental, public, or private dam or reservoir project if an easement exists on the acreage affected by the containment or release of the water;

(iv) Failure of a power supply or brownout; or

(v) Failure to harvest or market the crop due to lack of a sufficient plan or resources.

(b) [Reserved]

§ 760.1807 Miscellaneous provisions.

(a) All persons with a financial interest in a legal entity receiving payments under this subpart are jointly and severally liable for any refund, including related charges, that is determined to be due to FSA for any reason.

(b) In the event that any application under this subpart resulted from

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erroneous information or a miscalculation, the payment will be recalculated and any excess refunded to FSA with interest to be calculated from the date of the disbursement.

(c) Any payment to any participant under this subpart will be made without regard to questions of title under State law, and without regard to any claim or lien against the commodity, or proceeds, in favor of the owner or any other creditor except agencies of the U.S. Government. The regulations governing offsets and withholdings in part 3 of this chapter apply to payments made under this subpart.

(d) Any participant entitled to any payment may assign any payment(s) in accordance with regulations governing the assignment of payments in part 3 of this chapter.

(e) The regulations in parts 11 and 780 of this title apply to determinations under this subpart.

§ 760.1808 General provisions.

(a) Eligibility and payments under this subpart will be determined based on the county where the affected production was harvested.

(b) FSA county committees will make any necessary adjustments to the applicant's affected production and other information on the application form used to calculate a payment when the county committee determines:

(1) Additional documentation has been requested by FSA but has not been provided by the participant;

(2) The loss is due to an ineligible cause; or

(3) The participant has a contract providing a guaranteed payment for all or a portion of the crop.

(c) Unless otherwise specified, all eligibility provisions of part 1437 of this title also apply to tropical crops for eligibility under this subpart.

(d) FSA will use the most reliable data available at the time payments under this subpart are calculated. If additional data or information is provided or becomes available after a payment is issued, FSA will recalculate the payment amount and the producer must return any overpayment amount to FSA. In all cases, payments can only issue based on the payment formula for losses that affirmatively occurred.

(e) Production that is commingled between counties, crop years, or ineligible and eligible acres before it was a matter of record or combination of record and cannot be separated by using records or other means acceptable to FSA will be prorated to each respective year, county, or type of acreage, respectively.

§ 760.1809 Payment and adjusted gross income limitation.

(a) A person or legal entity, other than a joint venture or general partnership, is eligible to receive, directly or indirectly, payments of not more than $125,000 for each of the 2018, 2019, and 2020 crop years under this subpart.

(b) Payments made to a joint operation, including a joint venture or general partnership, cannot exceed the amount determined by multiplying the maximum payment amount specified in paragraph (a) of this section by the number of persons and legal entities, other than joint operations, that comprise the ownership of the joint operation.

(c) The direct attribution provisions in § 1400.105 of this title apply to payments under this subpart.

(d) The notification of interest provisions in § 1400.107 of this title apply to payments under this subpart.

(e) The provisions for recognizing persons added to a farming operation for payment limitation purposes as described in § 1400.104 of this title apply to payments under this subpart.

(f) The $900,000 average AGI limitation provisions in part 1400 of this title relating to limits on payments for persons or legal entities, excluding joint ventures and general partnerships, apply to each applicant for the QLA Program unless at least 75 percent of the person or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. A person's or legal entity's average AGI for each of the program years 2018, 2019 or 2020, is determined by using the average of the adjusted gross incomes for the 3 taxable years preceding the most immediately preceding taxable year. If the person's or legal entity's average AGI is below $900,000 or at least 75 percent of the person or legal entity's average AGI is derived from farming, ranching, or forestry-related activities, the person or legal entity, is eligible to receive payments under this subpart.

§ 760.1810 Time and method of application.

(a) A completed FSA–898, Quality Loss Adjustment (QLA) Program Application, must be submitted in person, by mail, email, or facsimile to any FSA county office by the close of business on March 5, 2020.

(b) An application submitted in accordance with paragraph (a) of this section is not considered valid and complete for issuance of payment under this subpart unless FSA determines all the applicable eligibility provisions have been satisfied and the producer has submitted all of following by March 19, 2020:

(1) Documentation required by § 760.1811;

(2) FSA–578, Report of Acreage, for all acreage for any crop for which payments under this subpart are requested;

(3) FSA–895, Crop Insurance and/or NAP Coverage Agreement; and

(4) For forage crops, FSA–899, Historical Nutritional Value Weighted Average Worksheet, if verifiable documentation of historical nutrient factors is available.

(c) In addition to the forms listed in paragraph (b) of this section, applicants must also submit all the following eligibility forms within 60 days from the date of signing the QLA Program application if not already on file with FSA:

(1) AD–1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation Certification;

(2) CCC–902 Automated, Farm Operating Plan for Payment Eligibility 2009 and Subsequent Program Years;

(3) CCC–941 Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information; and

(4) CCC–942 Certification of Income from Farming, Ranching and Forestry Operations, if applicable.

(d) Failure to submit all required forms by the applicable deadlines in paragraphs (b) and (c) of this section may result in no payment or a reduced payment.

(e) Application approval and payment by FSA does not relieve a participant from having to submit any form required, but not filed, according to this section.

(f) Once signed by a producer, the application is considered to contain information and certifications of and pertaining to the producer regardless of who entered the information on the application.

(g) The producer applying for payment under this subpart certifies the accuracy and truthfulness of the information provided in the application as well as any documentation filed with or in support of the application. All information is subject to verification or spot check by FSA at any time, either before or after payment is issued. Refusal to allow FSA or any agency of the USDA to verify any information provided will result in the participant's forfeiting eligibility for payment under this subpart. FSA may at any time, including before, during, or after processing and paying an application, require the producer to submit any additional information necessary to implement or determine any eligibility

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provision of this subpart. Furnishing information specified in this subpart is voluntary; however, FSA may choose not to act on the application or approve payment if the required information is not provided. Providing a false certification will result in ineligibility and can also be punishable by imprisonment, fines, and other penalties.

§ 760.1811 Required documentation and verification.

(a) If requested by FSA, an applicant must provide documentation that establishes the applicant's ownership share and value at risk in the crop.

(b) The applicant must provide acceptable documentation that is dated and contains all information required to substantiate the applicant's certification to the satisfaction of the FSA county committee. Verifiable documentation is required to substantiate the total dollar value loss and associated affected production, grading factors, and nutritional factors. FSA may verify the records with records on file at the warehouse, gin, or other entity that received or may have received the reported production. Reliable production records are required to substantiate the reported amount of affected production for applications not based on the total dollar value loss.

(c) To be considered acceptable, verifiable documentation for grain crops that were sold may come from any time between harvest and sale of the affected production, unless the FSA county committee determines the record is not representative of the condition within 30 days of harvest. For all other crops, the verifiable documentation must come from tests or analysis completed within 30 days of harvest, unless the FSA county committee determines that the record is representative of the condition of the affected production at time of harvest. Examples of acceptable records for purposes of this paragraph (c) include:

(1) Warehouse grading sheets;

(2) Settlement sheets;

(3) Sales receipts showing grade and price or disposition to secondary market due to quality; and

(4) Laboratory test results.

(d) For forage crops, producers must submit verifiable documentation showing the nutrient factors for the affected production. Producers must also submit verifiable documentation of the historical nutrient factors for the 3 preceding crop years if available. The nutrient factors that must be documented for a crop will determined by the FSA county committee based on the standard practice for the crop in that county.

(e) For all crops other than forage crops, producers must submit verifiable documentation of the total dollar value loss due to quality, if available, and verifiable documentation of grading factors due to quality.

(f) The participant is responsible for:

(1) Retaining, providing, and summarizing, at time of application and whenever required by FSA, the best available verifiable production records for the crop;

(2) Providing the information in a manner that can be easily understood by the FSA county committee; and

(3) Providing supporting documentation about the disaster event if the FSA county committee has reason to question the disaster event.

(e) Participants must provide all records for any production of a crop that is grown with an arrangement, agreement, or contract for guaranteed payment.

(f) Participants are required to retain documentation in support of their application for 3 years after the date of approval.

(g) Participants receiving QLA Program payments or any other person who furnishes such information to USDA must permit authorized representatives of USDA or the Government Accountability Office, during regular business hours, to enter the agricultural operation and to inspect, examine, and make copies of books, records, or other items for the purpose of confirming the accuracy of the information provided by the participant.

§ 760.1812 Payment calculation.

(a) Payments will be calculated separately for crops based on the crop type, intended use, certified organic or conventional status, county, and crop year.

(b) For forage crops with verifiable documentation of nutrient factors for the affected production and for the 3 preceding crop years, the payment will be equal to the producer's total affected production multiplied by the producer's verifiable percentage of loss, multiplied by the average market price, multiplied by 70 percent.

(c) For forage crops with verifiable documentation of nutrient factors for the affected production but not for the 3 preceding crop years, the payment will be equal to the producer's total affected production multiplied by the county average percentage of loss in paragraph (f) of this section, multiplied by the average market price, multiplied by 70 percent, multiplied by 50 percent.

(d) For crops other than forage with verifiable documentation of the total dollar value loss due to quality, the payment will be equal to the producer's total dollar value loss on the affected production, multiplied by 70 percent.

(e) For crops other than forage without verifiable documentation of the total dollar value loss but with verifiable documentation of grading factors, the payment will be equal to the producer's affected production multiplied by the county average loss per unit of measure in paragraph (g) of this section, multiplied by 70 percent, multiplied by 50 percent.

(f) The county average percentage of loss is the average percentage of loss from producers eligible for payment under paragraph (b) of this section if at least 5 producers in a county are eligible for payment for a crop under paragraph (b) of this section. If less than 5 producers in a county are eligible for payment for a crop under paragraph (b) of this section, the Deputy Administrator will:

(1) Determine a county average percentage of loss based on the best available data, including, but not limited to, evidence of losses in contiguous counties; or

(2) If a county average percentage of loss cannot be determined due to insufficient data, not issue payments to applicants under paragraph (c) of this section.

(g) The county average loss per unit of measure is based on the weighted average sales price from producers eligible for payment under paragraph (d) of this section if at least 5 producers in a county are eligible for payment for a crop under paragraph (d) of this section. If less than 5 producers are eligible for payment in a county under paragraph (d) of this section, the Deputy Administrator will:

(1) Determine a county average loss per unit of measure based on the best available data, including, but not limited to, evidence of losses in contiguous counties; or

(2) If a county average loss per unit of measure cannot be determined due to insufficient data, not issue payments to applicants under paragraph (e) of this section.

§ 760.1813 Availability of funds and timing of payments.

(a) Payments will be issued after the application period has ended and all applications have been reviewed by FSA.

(b) In the event that, within the limits of the funding made available by the Secretary, approval of eligible applications would result in payments

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in excess of the amount available, FSA will prorate payments by a national factor to reduce the payments to an amount that is less than available funds as determined by the Secretary.

(c) Applications and claims that are unpaid or prorated for any reason will not be carried forward for payment under other funds for later years or otherwise, but will be considered, as to any unpaid amount, void and nonpayable.

§ 760.1814 Requirement to purchase crop insurance or NAP coverage.

(a) For the first 2 consecutive crop years for which crop insurance or NAP coverage is available after the enrollment period for the QLA Program ends, a participant who receives payment under this subpart for a crop loss in a county must obtain:

(1) For an insurable crop, crop insurance with at least a 60 percent coverage level for that crop in that county; or

(2) For a NAP-eligible crop, NAP coverage with a coverage level of 60 percent.

(b) Participants who exceed the average adjusted gross income limitation for NAP payment eligibility [1] for the applicable crop year may meet the purchase requirement specified in paragraph (a)(2) of this section by purchasing Whole-Farm Revenue Protection crop insurance coverage, if eligible, or paying the NAP service fee and premium even though the participant will not be eligible to receive a NAP payment due to the average adjusted gross income limit.

(c) The final crop year to purchase crop insurance or NAP coverage to meet the requirements of paragraph (a) of this section is the 2023 crop year.

(d) A participant who obtained crop insurance or NAP coverage for the crop in accordance with the requirements for WHIP+ in § 760.1517 is considered to have met the requirement to purchase crop insurance or NAP coverage for the QLA Program.

(e) If a producer fails to obtain crop insurance or NAP coverage as required in this section, the producer must reimburse FSA for the full amount of QLA Program payment plus interest. A producer will only be considered to have obtained NAP coverage for the purposes of this section if the participant submitted a NAP application for coverage and paid the requisite NAP service fee and any applicable premium by the applicable deadline and completed all program requirements required under the coverage agreement, including filing an acreage report.

Richard Fordyce,

Administrator, Farm Service Agency.

[FR Doc. 2020–28914 Filed 1–5–21; 8:45 am]

BILLING CODE 3410–05–P

[1] See §§ 1400.500(a) and 1400.1(a)(4) of this title.

DEPARTMENT OF ENERGY

10 CFR Part 1061

RIN 1990–AA50

Procedures for the Issuance of Guidance Documents

AGENCY: Office of the General Counsel, Department of Energy.

ACTION: Final rule.

SUMMARY: The U.S. Department of Energy (DOE) publishes this final rule to establish procedures for the issuance of DOE guidance documents in accordance with Executive Order 13891. In this final rule, DOE establishes internal agency requirements for the contents of guidance documents, and procedures for providing notice of, and soliciting public comment on, certain guidance documents. This final rule also establishes procedures for the public to petition DOE to modify or withdraw guidance documents.

DATES: The effective date of this rule is February 5, 2021.

ADDRESSES: The docket for this rulemaking, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *https://www.regulations.gov*. All documents in the docket are listed in the *https://www.regulations.gov* index. However, not all documents listed in the index, such as those containing information that is exempt from public disclosure by law, may be publicly available. A link to the docket web page can be found at *https://www.regulations.gov/document?D=DOE-HQ-2020-0033-0001*. The docket web page explains how to access all documents, including public comments, in the docket.

FOR FURTHER INFORMATION CONTACT: Mr. Matthew Ring, U.S. Department of Energy, Office of the General Counsel, Forrestal Building, GC–33, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–2555, Email: *Guidance@hq.doe.gov*.

SUPPLEMENTARY INFORMATION:

I. Summary of Final Rule

In this final rule, DOE incorporates into the Code of Federal Regulations a new 10 CFR part 1061, which implements the requirements of Executive Order 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents.'' (84 FR 55235 (Oct. 15, 2019)) Among other things, Executive Order 13891 requires agencies to provide more transparency for their guidance documents by creating a searchable online database for current guidance documents,[1] and by establishing procedures to allow the public to comment on significant guidance documents and to petition the agency to withdraw or modify guidance documents.[2] Moreover, the Executive Order requires agencies to clearly state in their guidance documents that such guidance does not have the force and effect of law and is not legally binding, except as authorized by law or as incorporated into a contract. (84 FR 55235, 55237)

This final rule applies to all DOE guidance documents, as defined by Executive Order 13891, including the exceptions listed in section 2 of the Executive Order. This final rule also lists specific types of documents and communications that fall within the broader exceptions listed in the Executive Order (*e.g.,* speeches and presentations given by DOE officials, legal positions taken in litigation or enforcement actions). (See also OMB M–20–02, Guidance Implementing Executive Order 13891, Titled ''Promoting the Rule of Law Through Improved Agency Guidance Documents'' (Oct. 31, 2019), available at *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*). This final rule also adopts the same definition of ''significant guidance document'' as section 2 of Executive Order 13891.

In accordance with Executive Order 13891, this final rule requires that all DOE guidance documents clearly state that they do not have the force and effect of law and are not legally binding on the public, and that they are only intended to provide clarity to the public

[1] DOE's online database may be found at *energy.gov/guidance*.

[2] Executive Order 13891 defines ''significant guidance document'' as ''a guidance document that may reasonably be anticipated to: (i) Lead to an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (ii) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (iii) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (iv) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles of Executive Order 12866.'' (84 FR 55235, 55236)

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An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

Elizabeth K. Appel,

Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2021–00317 Filed 1–8–21; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–OIA–31249; PIN00IO14.XI0000]

U.S. Nominations to the World Heritage List; 15-Day Notice of Opportunity for Public Comment

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: This notice requests public comment on the next potential U.S. nominations from the U.S. World Heritage Tentative List (''Tentative List'') to the United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage List. The public may also make suggestions for future additions to the Tentative List. This notice complies with applicable World Heritage Program regulations.

DATES: Comments will be accepted on or before January 26, 2021.

ADDRESSES: You may submit comments by either of the following methods:

- *Mail to:* Jonathan Putnam, Office of International Affairs, National Park Service, 1849 C Street NW, Washington, DC 20240.
- *Email to: jonathan_putnam@nps.gov*. Phone: (202) 354–1809.

Comments will not be accepted in any way other than those specified above.

Information on the U.S. World Heritage program can be found at: *https://www.nps.gov/subjects/internationalcooperation/worldheritage.htm*.

To request a paper copy of the U.S Tentative List, please contact April Brooks, Office of International Affairs, National Park Service, 1849 C Street NW, Room 2415, Washington, DC 20240 (202) 354–1808, or Email: *april_brooks@nps.gov*.

FOR FURTHER INFORMATION CONTACT: Jonathan Putnam, (202) 354–1809.

For the World Heritage nomination format, see the World Heritage Centre website at: *http://whc.unesco.org/en/nominations*.

SUPPLEMENTARY INFORMATION:

Background

The World Heritage List is an international list of cultural and natural properties nominated by the signatories to the World Heritage Convention (1972), an international treaty for the preservation of natural and cultural heritage sites of global significance. U.S. participation and the roles of the Department of the Interior and the National Park Service are authorized by Title IV of the Historic Preservation Act Amendments of 1980 and conducted in accordance with 36 CFR part 73—World Heritage Convention. The National Park Service serves as the principal technical agency for the U.S. Government to the Convention.

A Tentative List is a national list of natural and cultural properties appearing to meet the World Heritage Committee eligibility criteria for nomination to the World Heritage List. It is a list of candidate sites which a country may consider for nomination within a given time period, but does not guarantee future nomination. The World Heritage Committee's *Operational Guidelines* ask participating nations to provide Tentative Lists, which aid in evaluating properties for the World Heritage List on a comparative international basis and help the Committee to schedule its work over the long term. A country cannot nominate a property unless it has been on its Tentative List for a minimum of a year. Countries also are limited at this time to nominating no more than one site in any given year.

Neither inclusion in the Tentative List nor inscription as a World Heritage Site imposes legal restrictions on owners or neighbors of sites, nor does it give the United Nations any management authority or ownership rights in U.S. World Heritage Sites, which continue to be subject to U.S. laws.

Current U.S. World Heritage Tentative List

The current U.S. World Heritage Tentative List includes the following properties:

Cultural Sites

Civil Rights Movement Sites, Alabama [other properties would be added for a complete nomination]

—Dexter Avenue King Memorial Baptist Church, Montgomery
—Bethel Baptist Church, Birmingham
—16th Street Baptist Church, Birmingham

Dayton Aviation Sites, Ohio

—Dayton Aviation Heritage National Historical Park

Hopewell Ceremonial Earthworks, Ohio

—Fort Ancient State Memorial, Warren County
—Hopewell Culture National Historical Park, near Chillicothe
—Newark Earthworks State Historic Site, Newark and Heath

Jefferson (Thomas) Buildings, Virginia (Proposed Jointly as an Extension to the World Heritage Listing of Monticello and the University of Virginia Historic District)

—Poplar Forest, Bedford County
—Virginia State Capitol, Richmond

Mount Vernon, Virginia

Serpent Mound, Ohio

Ellis Island, New Jersey and New York

Chicago Early Skyscrapers, Illinois, including: [Other Properties May Be Added in the Course of Developing a Nomination]

—Rookery
—Auditorium Building
—Monadnock Building
—Ludington Building
—Marquette Building
—Old Colony Building
—Schlesinger & Mayer (Carson, Pirie Scott) Department Store
—Second Leiter Building
—Fisher Building

Central Park, New York

Brooklyn Bridge, New York

Moravian Bethlehem District, Pennsylvania

Natural Sites

National Marine Sanctuary of American Samoa (Formerly Fagatele Bay National Marine Sanctuary, American Samoa)

Okefenokee National Wildlife Refuge, Georgia

Petrified Forest National Park, Arizona

White Sands National Monument, New Mexico

Marianas Trench National Monument, U.S. Territory, Commonwealth of the Northern Mariana Islands, Guam

Central California Current, California, Including

—Cordell Bank National Marine Sanctuary
—Monterey Bay National Marine Sanctuary
—Greater Farallones National Marine Sanctuary
—Farallon Islands National Wildlife Refuge

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NM-OTERO-21-0275-A-000559

—Point Reyes National Seashore
—Golden Gate National Recreation Area

Big Bend National Park, Texas

Pacific Remote Islands National Monument, U.S. Territorial Waters

Notes: (1) A nomination for the Hopewell Ceremonial Earthworks was authorized for preparation in May 2018 by the Department of the Interior and is now under development. (2) The Department has requested and is now awaiting advice from the International Council on Monuments and Sites (ICOMOS) on adding other properties to the proposal for the Civil Rights Movement Sites and its overall justification. (3) The government of the German state of Saxony is proposing an extension to the World Heritage listing of Christiansfeld, a Moravian Church Settlement in Denmark, that would include Herrnhut in Germany, the Moravian Bethlehem District in Bethlehem, Pennsylvania, and potentially other historic Moravian settlements in other countries.

Request for Public Comments

Comments on whether to authorize the preparation of a World Heritage nomination for any of the properties on the Tentative List should address the readiness and ability of the property owner(s) to prepare a satisfactory nomination document. Suggestions for additions to the Tentative List not previously submitted must address: (i) How the property(ies) would meet the World Heritage nomination criteria, requirements for authenticity, integrity, legal protection and management. Information on these criteria and requirements can be found on the website noted in the **FOR FURTHER INFORMATION CONTACT** section of this notice; and (ii) The U.S. legal prerequisites that include the agreement of all property owners to the nomination of their property, an official determination that the property is nationally significant (such as by designation as a National Historic or National Natural Landmark), and effective legal protection. All previous suggestions for the Tentative List made during previous comment periods or otherwise submitted since 2008, have been retained and considered and should not be resubmitted at this time.

Selection and Nomination

All public comments will be summarized and provided to Department of the Interior officials, who will obtain the advice of the Federal Interagency Panel for World Heritage before making any selection of properties for authorization to prepare a World Heritage nomination. The selection may include relevant factors, such as the likelihood of being able to complete a satisfactory nomination, and the fact that the United States is currently prohibited by law from providing any funding to UNESCO, including UNESCO and World Heritage member dues. Once authorized, the property owners may prepare a draft nomination.

The Department does not have a fixed schedule for completing or submitting World Heritage nominations. No more than one nomination from any country may be submitted per year, per the UNESCO World Heritage *Operational Guidelines.* Completed nominations, if approved by the Department for submission, may be submitted to the UNESCO World Heritage Centre by February 1 of any year.

Public Availability of Comments

All comments will be a matter of public record. Before including an address, phone number, email address, or other personal identifying information in a comment, members of the public should be aware that the entire comment—including personal identifying information—may be made public at any time. While commenters can request that personal identifying information be withheld from public review, it may not be possible to comply with this request.

Authority: 54 U.S.C. 307101; 36 CFR part 73.

George Wallace,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2021–00310 Filed 1–8–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#-31331; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before December 25, 2020, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by January 26, 2021.

ADDRESSES: Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line ''Public Comment on property or proposed district name, (County) State.'' If you have no access to email you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before December 25, 2020. Pursuant to Section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State or Tribal Historic Preservation Officers:

CALIFORNIA

Orange County

Johnson, Hugh Edgar, House, 444 W. Brookdale Pl., Fullerton, SG100006089

FLORIDA

Monroe County

Matecumbe Methodist Church Cemetery, 81801 Overseas Hwy., Islamorada, SG100006117

Pinellas County

House at 827 Mandalay Avenue, 827 Mandalay Ave., Clearwater, SG100006118

Sumter County

Wild Cow Prairie Cemetery, 5822 Cty. Rd. 673, Bushnell vicinity, SG100006119

Volusia County

Wright, James W., Building, 258 West Voorhis Ave., DeLand, SG100006120

Walton County

Herman Lodge No. 108 Free & Accepted Masons of Florida, 314 Madison St., Freeport, SG100006121

ILLINOIS

Cook County

Irving, James B., House, 2771 Crawford Ave., Evanston, SG100006102

AMERICAN OVERSIGHT

From: Jonna Lou Schafer <boredwell@dellcity.com>
Sent: Monday, January 11, 2021 9:20 PM EST
To: Couy Griffin <cgriffin@co.otero.nm.us>; Gerald Matherly <gmatherly@co.otero.nm.us>; Vickie Marquardt <vmarquardt@co.otero.nm.us>
CC: Pamela Heltner <pheltner@co.otero.nm.us>; Brian Muise <b.k.muise@gmail.com>; Gary Scarbrough <gary@dellcity.com>; Henerietta Stockel <hstockel@tularosa.net>; Jeff Stephan <pc1chap.nm@gmail.com>; Jeff Stephen <casadeosos.jeff@gmail.com>; Judy Medeiros <judymedeiros@msn.com>; Schafer <boredwell@dellcity.com>; Sidney Gordon <sgordon@nmsu.edu>; Twyla Lewis <tflewis@pvtn.net>; Walt Coffman <walt@pvtnetworks.net>
Subject: Fw: Linebery weekly email (federal register)
Attachment(s): "2020-28879.pdf","2020-28881.pdf","2020-28914.pdf","2021-00310.pdf"

FYI

From: Nicholas Ashcroft
Sent: Monday, January 11, 2021 7:03 PM
To:
Subject: Linebery weekly email (federal register)

2020-28879 - Council on Environmental Quality. Notice of online portal for agency guidance documents.

2020-28881- Council on Environmental Quality. Final rule.

2020-28914- Agricultural Disaster Indemnity Programs: Farm Service Agency (FSA), Department of Agriculture (USDA). Final rule.

2021-00310- U.S. Nominations to the World Heritage List; 15-Day Notice of Opportunity for Public Comment: National Park Service, Interior.

Nick Ashcroft
Natural Resource Policy Analyst
Linebery Policy Center for Natural Resource Management

nashcrof@nmsu.edu
575-646-5508 (office)

Confidential/Proprietary Note:
Access to this email by anyone other than the intended addressee is unauthorized. This e-mail, including all attachments is for the sole use of the intended recipients. Any unauthorized review, use, disclosure or distribution is prohibited unless specifically provided under the New Mexico Inspection of Public Records Act. If you are not the intended recipient, please reply to or forward a copy of this message to the sender and delete the message, any attachments, and any copies thereof from your system. Thank you.

AMERICAN OVERSIGHT

7910–00–685–6660—Pad, Machine, Scrubbing, Floor, 17″ x ¼″
7910–00–685–6671—Pad, Machine, Polishing, Floor, 15″ x ¼″
7910–00–685–6672—Pad, Machine, Polishing, Floor, 17″ x ¼″
7910–00–685–6686—Pad, Machine, Polishing, Floor, 12″ x ¼″
7910–00–685–6687—Pad, Machine, Polishing, Floor, 13″ x ¼″
7910–00–820–7989—Pad, Floor, Buffing, Nylon, Tan, 15″
7910–00–NIB–0006—Pad, Floor, Burnishing, Animal Hair, Gray, 17″
7910–00–NIB–0009—Pad, Floor, Burnishing, Animal Hair, Gray, 21″
7910–00–NIB–0016—Pad, Floor, Polishing, Animal Hair, Beige, 17″
7910–00–NIB–0029—Pad, Floor, Buffing, Polyester, Red, 14″
7910–00–NIB–0030—Pad, Floor, Buffing, Polyester, Red, 15″
7910–00–NIB–0034—Pad, Floor, Scrubbing, Polyester, Blue, 14″
7910–00–NIB–0040—Pad, Floor, Scrubbing, Polyester, Blue, 21″
7910–01–512–5933—Pad, Floor, Stripping, Polyester, Brown, 17″
7910–01–512–5937—Pad, Floor, Scrubbing, Polyester, Blue, 13″
7910–01–512–5950—Pad, Floor, Scrubbing, Polyester, Blue, 17″

Designated Source of Supply: Beacon Lighthouse, Inc., Wichita Falls, TX
Contracting Activity: GSA/FSS Greater Southwest ACQUISITI, Fort Worth, TX

Michael R. Jurkowski,

Deputy Director, Business & PL Operations.

[FR Doc. 2021–00151 Filed 1–7–21; 8:45 am]

BILLING CODE 6353–01–P

COUNCIL ON ENVIRONMENTAL QUALITY

Guidance Document Online Portal

AGENCY: Council on Environmental Quality.

ACTION: Notice of online portal for agency guidance documents.

SUMMARY: In accordance with Executive Order (E.O.) 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' dated October 9, 2019, and Office of Management and Budget (OMB) Memorandum M–20–02, dated October 31, 2019, the Council on Environmental Quality (CEQ) is providing notice of where the public may access CEQ guidance documents.

ADDRESSES: The portal may be found at *https://www.whitehouse.gov/ceq/resources/*.

FOR FURTHER INFORMATION CONTACT: Amy B. Coyle, Deputy General Counsel, Council on Environmental Quality, 730 Jackson Place NW, Washington, DC 20503, 202–395–5750, *amy.b.coyle@ceq.eop.gov*.

SUPPLEMENTARY INFORMATION: E.O. 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' [1] requires that each agency establish or maintain on its website a single, searchable, indexed database that contains or links to all agency guidance documents [2] in effect. In accordance with E.O. 13891 and OMB's implementing guidance, set forth in OMB Memorandum M–20–02,[3] CEQ has complied with this requirement through its website portal, which is available to the public at *whitehouse.gov/ceq/resources*.[4] As required by E.O. 13891, the website also reiterates that: (1) The contents of the guidance documents accessed through the portal lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract; and (2) these documents are intended only to provide clarity to the public regarding existing requirements under statutes and regulations administered by CEQ. Under the E.O., CEQ may not cite, use, or rely on any guidance document that is not posted on or linked to the website portal, except to establish historical facts.

CEQ will also include on its website portal a link to its final rule establishing CEQ's internal agency procedures for issuing guidance documents, required by section 4 of E.O. 13891. The final rule relating to CEQ's guidance document procedures is published elsewhere in this issue of the **Federal Register**.

Authority: 42 U.S.C. 4321–4347; 42 U.S.C. 4371–4375; and E.O. 13891, 84 FR 55235.

Mary B. Neumayr,

Chairman.

[FR Doc. 2020–28879 Filed 1–7–21; 8:45 am]

BILLING CODE 3125–F1–P

[1] 84 FR 55235 (Oct. 15, 2019).

[2] E.O. 13891 defines ''guidance document'' as ''an agency statement of general applicability, intended to have future effect on the behavior of regulated parties, that sets forth a policy on a statutory, regulatory, or technical issue, or an interpretation of a statute or regulation. . . .'' *Id.*

[3] OMB issued its guidance memorandum on October 31, 2019. *See* M–20–02, Guidance Implementing Executive Order 13891, Titled ''Promoting the Rule of Law Through Improved Agency Guidance Documents'' (Oct. 31, 2019), *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*.

[4] CEQ's website portal at *https://www.whitehouse.gov/ceq/resources/* includes links to CEQ guidance documents and resources, some of which are provided on nepa.gov (*https://www.energy.gov/nepa/ceq-guidance-documents*) and sustainability.gov (*https://www.sustainability.gov/resources.html*).

DEPARTMENT OF EDUCATION

[Docket No. ED–2020–SCC–0167]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before February 8, 2021.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Find this information collection request by selecting ''Department of Education'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox. Comments may also be sent to *ICDocketmgr@ed.gov*.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, (202) 377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note

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PART 220—[REMOVED]

■ Accordingly, for the reasons stated in the preamble and under the authority of 5 U.S.C. 301, the Corps removes 33 CFR part 220.

R.D. James,

Assistant Secretary of the Army (Civil Works).

[FR Doc. 2020–27908 Filed 1–7–21; 8:45 am]

BILLING CODE 3720–58–P

COUNCIL ON ENVIRONMENTAL QUALITY

40 CFR Part 1519

RIN 0331–AA04

Guidance Document Procedures

AGENCY: Council on Environmental Quality.

ACTION: Final rule.

SUMMARY: Pursuant to Executive Order (E.O.) 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' this final rule establishes the process that the Council on Environmental Quality (CEQ) will follow for issuing guidance documents. E.O. 13891 requires Federal agencies to finalize regulations or amend existing regulations to establish processes and procedures for issuing guidance documents.

DATES: This rule is effective January 8, 2021.

FOR FURTHER INFORMATION CONTACT: Amy B. Coyle, Deputy General Counsel, Council on Environmental Quality, 730 Jackson Place NW, Washington, DC 20503, (202) 395–5750, *amy.b.coyle@ceq.eop.gov*.

SUPPLEMENTARY INFORMATION:

On October 9, 2019, President Trump issued E.O. 13891,[1] which addresses the development, use, and public availability of agency guidance documents. It requires agencies to promulgate or update existing regulations setting forth their procedures for issuing guidance documents. In accordance with section 6 of E.O. 13891, on October 31, 2019, the Office of Management and Budget (OMB) issued memorandum M–20–02, ''Guidance Implementing Executive Order 13891, Titled 'Promoting the Rule of Law Through Improved Agency Guidance Documents' '' (OMB M–20–02)[2] to provide guidance and implement the Executive order. OMB M–20–02 provides agencies with additional instruction on how to implement E.O. 13891, including the required rulemaking.

I. Summary of Final Rule

In this final rule, CEQ adds a new part 1519 to the Code of Federal Regulations to set out its procedures for the development and issuance of guidance documents consistent with the direction and reflecting the policies described in E.O. 13891 and OMB M–20–02.

A. Section 1519.1, ''Purpose''

Section 1519.1, ''Purpose,'' states that the purpose of part 1519 is to implement E.O. 13891, and explains CEQ's process for developing and issuing guidance.

B. Section 1519.2, ''Guidance Document Procedures''

Section 1519.2, ''Guidance document procedures,'' defines ''guidance documents'' in paragraph (a) and describes documents that do not meet that definition in paragraph (b), consistent with section 2(b)[3] of the E.O. and Q2 of OMB M–20–02.

Paragraph (c) of § 1519.2 lists the minimum requirements for any document meeting the definition of a guidance document consistent with Q22 of OMB M–20–02, including a title, unique identification number, date, indication of whether it revises or replaces prior guidance, summaries, and legal citations. Additionally, consistent with section 4(i) of E.O. 13891, paragraph (c)(6) includes a requirement that each guidance document clearly state that it does not bind the public, except as authorized by law or as incorporated into a contract.

Paragraph (c)(11) of § 1519.2 specifies that any guidance document must be posted on CEQ's website. E.O. 13891 also directed Federal agencies to make guidance documents publicly available in an indexed, searchable database online. As described in the **Federal Register** notice published today, CEQ has complied with this requirement through its website *whitehouse.gov/ceq/resources*.[4] As noted on this website, CEQ may not cite, use, or rely on any guidance that is not posted on its web pages except to establish historical facts. CEQ also makes clear that CEQ's guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract.

Finally, paragraph (d) of § 1519.2 requires the CEQ Office of the General Counsel to review and clear all guidance documents before CEQ issues them.

C. Section 1519.3, ''Procedures for the Public To Request Withdrawal or Modification of a Guidance Document''

Consistent with section 4(ii) of E.O. 13891, § 1519.3, ''Procedures for the public to request withdrawal or modification of a guidance document,'' addresses the process for members of the public to petition CEQ to withdraw or modify a particular guidance document, including designation of the Office of the General Counsel as the office within CEQ to which the public should direct such petitions. CEQ intends to provide additional instructions on its guidance website, including appropriate contact information and format of the petitions.

D. Section 1519.4, ''Significant Guidance Documents''

Finally, § 1519.4, ''Significant guidance documents,'' addresses specific requirements for a subset of ''guidance documents'' that are ''significant guidance documents'' as defined by section 2(c) of E.O. 13891. Paragraph (a) sets forth that definition. OMB's Office of Information and Regulatory Affairs (OIRA) makes the final determination of whether a guidance document is significant. If OIRA makes such a determination for a particular guidance document, this section will also apply. Consistent with section 4(iii) of E.O. 13891, paragraph (b) sets forth procedural requirements, including public notice and comment for at least 30 days, unless an exception applies; public response to major concerns raised in comments; approval on a non-delegable basis by the Chairman, or an official acting as Chairman; review by OIRA under Executive Order 12866; and compliance with the applicable requirements for regulations or rules.

II. Rulemaking Analyses and Notices

A. Regulatory Procedures

Under the Administrative Procedure Act, an agency may waive notice and comment procedures if an action is an interpretative rule, a general statement of policy, or a rule of agency organization, procedure, or practice. *See* 5 U.S.C. 553(b)(A). This rule describes the internal process that CEQ will follow to comply with the requirements specified in E.O. 13891 when issuing guidance documents as defined by the

[1] 84 FR 55235 (Oct. 15, 2019).

[2] OMB M–20–02 is available at *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*.

[3] E.O. 13891 section 2(b) lists the following as exclusions to the definition of guidance document. 84 FR at 55235–36.

[4] CEQ's website, *whitehouse.gov/ceq/resources*, includes links to CEQ guidance documents and resources, some of which are provided on *nepa.gov* and *sustainability.gov*.

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E.O. Because this rule is one of agency organization, procedure, or practice, it is exempt from the requirement to provide prior notice and opportunity for public comment.

B. Regulatory Planning and Review (E.O. 12866 and E.O. 13563)

E.O. 12866 provides that OIRA will review all significant rules. E.O. 13563 reaffirms the principles of E.O. 12866, calling for improvements in the Federal government's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory objectives. OMB determined that this final rule does not meet the requirements for a significant regulatory action under E.O. 12866, as supplemented by E.O. 13563, and therefore it was not subject to review.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, as amended (RFA), 5 U.S.C. 601 *et seq.,* and E.O. 13272 do not apply to this rulemaking because it is not subject to the notice and comment requirements of 5 U.S.C. 553(b).

D. Unfunded Mandates Reform Act

A statement containing the information required by the Unfunded Mandates Reform Act, 2 U.S.C. 1531 *et seq.,* is not required. This rule will not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year, and it will not have a significant or unique effect on State, local, or Tribal governments, or the private sector.

E. Reducing Regulation and Controlling Regulatory Costs (E.O. 13771)

This rule is not an E.O. 13771 regulatory action because this rule is not significant under E.O. 12866.

F. Federalism (E.O. 13132)

Under the criteria in section 1 of E.O. 13132, this rule will not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement because it will not substantially and directly affect the relationship between the Federal and State governments.

G. National Environmental Policy Act

The purpose of this rulemaking is to formalize the CEQ's administrative procedures for issuing guidance documents, as required by E.O. 13891. CEQ has determined that the final rule is a non-major Federal action under the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.,* and would not have any effect on the environment because it merely outlines internal CEQ administrative procedures and does not authorize any activity or commit resources to a project that may affect the environment.

H. Paperwork Reduction Act

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This rule will not impose recordkeeping or reporting requirements on State, local, or Tribal governments, individuals, businesses, or organizations.

List of Subjects in 40 CFR Part 1519

Administrative practice and procedure, Guidance.

Mary B. Neumayr,
Chairman.

■ For the reasons stated in the preamble, the Council on Environmental Quality adds 40 CFR part 1519 as follows:

PART 1519—GUIDANCE DOCUMENTS

Sec.
1519.1 Purpose.
1519.2 Guidance document procedures.
1519.3 Procedures for the public to request withdrawal or modification of a guidance document.
1519.4 Significant guidance documents.

Authority: 42 U.S.C. 4321–4347; 42 U.S.C. 4371–4375; and E.O. 13891, 84 FR 55235.

§ 1519.1 Purpose.

(a) This part implements Executive Order 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' and reflects the policies described in that order. The provisions in this part address the Council on Environmental Quality's procedures for the development and issuance of agency guidance documents. This part explains what constitutes guidance documents, and sets forth the minimum requirements for guidance documents, the procedures to request withdrawal or modification of guidance documents, and the additional requirements and procedures for significant guidance documents.

(b) This part is intended to improve the internal management of the Council on Environmental Quality. It is not intended to and does not create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its agencies or other entities, its officers or employees, or any other person.

(c) If Executive Order 13891 or any provision thereof is rescinded or superseded, this part remains in effect.

§ 1519.2 Guidance document procedures.

(a) *Definition of guidance documents.* For purposes of this part, guidance documents are agency statements of general applicability, intended to have future effect on the behavior of regulated parties, that set forth a policy on a statutory, regulatory, or technical issue, or an interpretation of a statute or regulation.

(b) *Documents excluded from the definition of guidance documents.* Guidance documents do not include:

(1) Agency statements of specific, rather than general, applicability.

(2) Agency statements that do not set forth a policy on a statutory, regulatory, or technical issue or an interpretation of a statute or regulation.

(3) Legislative rules promulgated under 5 U.S.C. 553 (or similar statutory provisions), or exempt from rulemaking requirements under 5 U.S.C. 553(a).

(4) Rules of agency organization, procedure, or practice that are not anticipated to have substantial future effect on the behavior of regulated parties or the public.

(5) Decisions of agency adjudication.

(6) Documents or agency statements that are directed solely to the Council on Environmental Quality or other agencies (or personnel of such agencies) that are not anticipated to have substantial future effect on the behavior of regulated parties or the public.

(7) Legal briefs and other court filings.

(8) Legal advice or opinions from the Council on Environmental Quality's Office of the General Counsel.

(9) Categories of guidance documents made exempt from Executive Order 13891 by the Administrator of the Office of Management and Budget's Office of Information and Regulatory Affairs through memoranda issued pursuant to section 4(b) of Executive Order 13891.

(c) *Elements of guidance documents.* In general, each guidance document must:

(1) Provide the title of the guidance document;

(2) Provide a unique document identification number;

(3) Identify the Council on Environmental Quality and any office, as appropriate, issuing the guidance document;

(4) Include the date of issuance;

(5) Include the term ''guidance'';

(6) Include a disclaimer clarifying that it does not have the force and effect of law; is not meant to bind the public in any way; and is intended only to provide clarity to the public regarding

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existing requirements under the law or agency policies. When a guidance document is binding because the law authorizes binding guidance or because a contract incorporates the guidance, the Council on Environmental Quality must modify the disclaimer to reflect accordingly;

(7) If it is a revision to or a replacement of a previously issued guidance document, identify the guidance document that it revises or replaces;

(8) Include a short summary of the subject matter covered in the guidance document at the top of the document;

(9) Identify the activities to which and the persons to whom the guidance document applies;

(10) Include the citation to the statutory provision or regulation to which the guidance document applies or which it interprets; and

(11) Be posted on the Council on Environmental Quality's website.

(d) *Review and clearance.* The Office of the General Counsel must review and clear all proposed guidance documents before issuance.

§ 1519.3 Procedures for the public to request withdrawal or modification of a guidance document.

(a) Any member of the public may petition the Council on Environmental Quality to withdraw or modify a guidance document.

(b) The petitioner must submit the request for the withdrawal or modification of a guidance document in writing to the Office of the General Counsel. The petition must contain a statement of the reasons for the petition and any supporting documents to support the petitioner's request.

(c) Upon receipt of a petition for withdrawal or modification of a guidance document, the Office of the General Counsel will consult with the relevant offices and coordinate the response to the petition.

(d) The Council on Environmental Quality should respond to a petition in writing, including electronically, within 90 days of receipt of a petition. The response should state whether the petition is granted, granted in part and denied in part, denied, or provisionally denied for lack of adequate information. If the petition is provisionally denied for lack of adequate information, the response should indicate what additional information is necessary to adjudicate the petition. The Office of the General Counsel should respond to the petition in writing no later than 90 days after receipt of the necessary additional information. The response should state whether the petition is granted, granted in part and denied in part, or denied.

(e) The Council on Environmental Quality may consider in a coordinated manner or provide a coordinated response to similar petitions for withdrawal or modification.

(f) The Council on Environmental Quality need not respond to petitions under this part for withdrawal or modification of documents that do not meet the definition of a guidance document.

§ 1519.4 Significant guidance documents.

(a) *Significant guidance documents definition.* For the purposes of this section, significant guidance documents are guidance documents that may be reasonably anticipated to:

(1) Lead to an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles of Executive Order 12866.

(b) *Actions the Council on Environmental Quality will take before issuing significant guidance documents.* When the Office of Management and Budget's Office of Information and Regulatory Affairs determines that a guidance document is a significant guidance document, the Council on Environmental Quality must:

(1) Submit the guidance document for review by the Office of Information and Regulatory Affairs under Executive Order 12866;

(2) Publish the draft significant guidance document in the **Federal Register** for a public notice and comment period of at least 30 days;

(i) This provision will not apply if the Council on Environmental Quality for good cause finds that notice and public comment is impracticable, unnecessary, or contrary to the public interest.

(ii) If such a finding is made, the Council on Environmental Quality must incorporate such a finding and a brief statement of its reasoning into the significant guidance document.

(3) Obtain approval on a non-delegable basis from the Chairman or an official who is serving in an acting capacity as the Chairman.

(4) Provide a public response to major concerns raised in comments on the draft significant guidance document.

(5) Announce the availability of the final significant guidance document.

(6) Comply with the applicable requirements for regulations or rules, including significant regulatory actions, set forth in Executive Orders 12866, ''Regulatory Planning and Review,'' 13563, ''Improving Regulation and Regulatory Review,'' 13609, ''Promoting International Regulatory Cooperation,'' 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' and 13777, ''Enforcing the Regulatory Reform Agenda.''

(c) *Exemption.* This section will not apply if the Chairman or an official who is serving in an acting capacity as the Chairman of the Council on Environmental Quality and the Administrator of the Office of Information and Regulatory Affairs agree that exigency, safety, health, or other compelling cause warrants an exemption from some or all requirements.

[FR Doc. 2020–28881 Filed 1–7–21; 8:45 am]

BILLING CODE 3225–F1–P

FEDERAL PERMITTING IMPROVEMENT STEERING COUNCIL

40 CFR Chapter IX

[Agency Docket Number 2020–001]

RIN 3121–AA01

Adding Mining as a Sector of Projects Eligible for Coverage Under Title 41 of the Fixing America's Surface Transportation Act

AGENCY: Federal Permitting Improvement Steering Council.

ACTION: Final rule.

SUMMARY: The Federal Permitting Improvement Steering Council (Permitting Council) has voted to add mining as a sector with infrastructure projects eligible for coverage under Title 41 of the Fixing America's Surface Transportation Act (FAST–41). A new part will be included in the Code of Federal Regulations that adds mining to the list of statutory FAST–41 sectors. The addition of mining as a FAST–41 sector will allow qualified mining infrastructure projects to become FAST–41 covered projects. FAST–41 coverage will help Federal agencies coordinate their environmental and project review efforts to improve the timeliness, efficiency, predictability, and transparency of the decision-making processes associated with covered

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Rules and Regulations

Federal Register
Vol. 86, No. 3
Wednesday, January 6, 2021

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 760

[Docket ID: FSA–2020–0011]

RIN 0560–AI55

Agricultural Disaster Indemnity Programs

AGENCY: Farm Service Agency (FSA), Department of Agriculture (USDA).

ACTION: Final rule.

SUMMARY: This rule establishes the Quality Loss Adjustment (QLA) Program to provide assistance to producers who suffered eligible crop quality losses due to hurricanes, excessive moisture, floods, drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. It also amends the provisions for the Wildfire and Hurricane Indemnity Program Plus (WHIP+) to be consistent with the Further Consolidated Appropriations Act, 2020, by adding excessive moisture and drought occurring in 2018 and 2019 as qualifying disaster events and clarifying eligibility of sugar beets. The changes to WHIP+ were self-enacting and were previously implemented by FSA.

DATES:

Effective date: January 6, 2021.

Comment due date: Comments are due by March 8, 2021.

ADDRESSES: We invite you to submit comments on this rule. You may submit comments by either of the following methods, although FSA prefers that you submit comments electronically through the Federal eRulemaking Portal:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and search for Docket ID FSA–2020–0011. Follow the instructions for submitting comments.
- *Mail:* Director, SND, FSA, U.S. Department of Agriculture, 1400 Independence Avenue SW, Stop 0522, Washington, DC 20250–0522. In your comment, specify the docket ID FSA–2020–0011.

Comments will be available for viewing online at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Kimberly Graham at (202) 720–6825 (voice); or by email at: *kimberly.graham@usda.gov*. Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice).

SUPPLEMENTARY INFORMATION:

Background

The Additional Supplemental Appropriations for Disaster Relief Act, 2019 (''Disaster Relief Act,'' Pub. L. 116–20) provided disaster assistance for necessary expenses related to losses of crops (including milk, on-farm stored commodities, crops prevented from planting in 2019, and harvested adulterated wine grapes), trees, bushes, and vines, as a consequence of hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. The Further Consolidated Appropriations Act, 2020 (Pub. L. 116–94), makes several changes to the provisions of the Disaster Relief Act, including:

- Specifying that assistance would be provided for crop quality losses;
- Adding excessive moisture as a qualifying disaster event;
- Adding drought as a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year; and
- Providing that sugar beet losses in 2018 and 2019 would be paid through cooperative processors (to be paid to producer members as determined by such processors).

This rule implements those provisions of the Further Consolidated Appropriations Act, 2020, by establishing the QLA Program to provide assistance for crop quality losses and amending the WHIP+ regulations to be consistent with the changes to qualifying disaster events and eligibility of sugar beet losses.

QLA Program

This rule establishes the QLA Program to provide disaster assistance for crop quality losses that were a consequence of hurricanes, excessive moisture, floods, qualifying drought, tornadoes, typhoons, volcanic activity, snowstorms, or wildfires occurring in calendar years 2018 and 2019. Eligible crops generally include crops for which FCIC crop insurance coverage or Noninsured Crop Disaster Assistance Program (NAP) coverage is available; however, value loss crops,[1] honey, and maple sap are not eligible. The QLA Program provides assistance for losses to crops that were sold or fed to livestock or are in storage; crops that were destroyed are not eligible. Assistance will be based on a producer's harvested affected production of an eligible crop that had a quality loss due to a qualifying disaster event and had at least a 5 percent quality loss due to all eligible disaster events.

Qualifying disaster events include hurricanes, floods, tornados, typhoons, volcanic activity, snowstorms, wildfires, excessive moisture, qualifying drought, and related conditions that occurred in the 2018 or 2019 calendar year. Assistance is available for eligible producers in counties that received a qualifying Presidential Emergency Disaster Declaration (declaration) or Secretarial Disaster Designation (designation) due to one or more of the qualifying disaster events or a related condition. As required by the Further Consolidated Appropriations Act, 2020, drought is only a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year (referred to as ''qualifying drought'' in this rule). Only producers in those counties that received a disaster declaration or designation qualify for the QLA Program based on the declaration or designation. Producers in counties that did not receive a qualifying declaration or designation may still apply; however, they must also provide supporting documentation to establish that the crop was directly affected by a qualifying disaster event and suffered the same

[1] Value loss crops include aquaculture, floriculture, mushrooms, ginseng root, ornamental nursery, sea grass and sea oats, Christmas trees, and turfgrass sod.

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minimum loss as required by a crop in a disaster declared or designated county. Lists of counties with Presidential Emergency Disaster Declarations and Secretarial Disaster Designations for all qualifying disaster events for 2018 and 2019 are available at *farmers.gov/quality-loss.*

FSA recognizes that a crop may suffer quality losses due to multiple disaster events in a single crop year, and the portion of a crop's quality loss that can be attributed to a specific disaster event may be difficult to determine. Therefore, while a qualifying disaster event must have caused at least a portion of the affected production's quality loss, FSA will consider the total quality loss caused by all eligible disaster events for eligibility and payment calculation purposes. Eligible disaster events for the QLA Program include those listed for NAP in 7 CFR 1437.10, except that the QLA Program does not cover losses due to insect infestation.

The QLA Program does not cover losses due to disaster events occurring after a crop was harvested or due to crop deterioration while in storage. Quality losses that could have been mitigated using good farming practices are not eligible. For example, if a producer's corn crop received a quality discount due to high moisture content, the producer could have mitigated that quality loss by using best practices for drying and storing the crop; therefore, that producer's quality loss due to high moisture is not eligible. The QLA Program does not provide assistance for losses that cannot be determined to have occurred or for losses for which a notice of loss was previously disapproved by FSA, RMA, or an approved insurance provider selling and servicing Federal crop insurance policies unless that notice of loss was disapproved solely because it was filed after the applicable deadline.

The QLA Program does not provide assistance for certain quality losses that were already compensated under a Federal crop insurance plan, NAP, or WHIP+. This includes losses to affected production of:

- Multiple market crops already compensated under crop insurance or WHIP+;
- Crops for which production used to calculate a crop insurance indemnity or WHIP+ payment was adjusted based on a comparison of the producer's sale price to the FCIC established price;
- Crops that received a crop insurance indemnity, NAP payment, or WHIP+ payment based on the quantity of production that was considered unmarketable; and
- Crops for which production was reported as salvage value or secondary use.

The QLA Program also excludes quality losses to sugar beets that were compensated through cooperative agreements with cooperative processors.

Affected production of a subsequent crop grown on double cropped acreage is only eligible if the crop has been approved as an eligible double cropping practice by the FSA State committee.

Application

FSA will accept QLA Program applications from January 6, 2021, through March 5, 2021. To apply, producers must submit a completed QLA Program application either in person, by mail, email, or facsimile to an FSA county office. To be eligible, a producer must submit a complete application, which includes all of the following:

- FSA–898, Quality Loss Adjustment (QLA) Program Application;
- FSA–899, Historical Nutritional Value Weighted Average Worksheet (only for forage crops with verifiable documentation of historical nutrient factors from the 3 preceding crop years);
- FSA–578, Report of Acreage;
- FSA–895, Crop Insurance and/or NAP Coverage Agreement; and
- Required documentation, as discussed below.

The FSA–578, FSA–895, and FSA–899 forms, and other required documentation must be submitted to the producer's county office by March 19, 2021.

If not already on file with FSA, producers must also submit the following eligibility forms for each crop year within 60 days of the date the producer signs the application:

- AD–1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification;
- CCC–902, Farm Operating Plan for Payment Eligibility;
- CCC–941 Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information; and
- CCC–942 Certification of Income from Farming, Ranching and Forestry Operations, if applicable.

Payments will not be made until all necessary eligibility documentation is received. Failure of an applicant to submit documentation timely may result in FSA not issuing a payment or, in the case of legal entities, a reduced payment if the required documentation for one or more members of the entity is not submitted timely.

Required Documentation

To support their applications, producers must submit documentation showing the quality loss and quantity of affected production by March 19, 2021. Documentation of the quality loss (total dollar value loss, grading factors, and nutrient factors, as applicable), must be verifiable. Verifiable documentation is documentation that can be verified by FSA through an independent source; FSA may verify the submitted records with records on file at the warehouse, gin, laboratory, or other entity that received or tested the reported production. Examples of acceptable, verifiable documentation include warehouse grading sheets, settlement sheets, sales receipts, and laboratory test results. Except for grain crops that have been sold, the documentation must be from laboratory tests or analysis completed within 30 days of harvest to be considered acceptable, unless the FSA county committee determines that the record is representative of the condition of the affected production within 30 days of harvest. For grain crops that were sold, the verifiable documentation can be from any time from harvest through the time of sale, unless the FSA county committee determines the record is not representative of the condition within 30 days of harvest. Producers who do not have acceptable, verifiable documentation are ineligible for the QLA Program.

For forage crops, all producers must submit verifiable documentation showing the nutrient factors for the affected production of the crop. Producers must also submit verifiable documentation of the historical nutrient factors for the 3 preceding crop years if available. The type of nutrient factors (such as relative feed value or total digestible nutrients) that must be documented for a particular crop will be determined by the FSA county committee based on the standard practice for the crop in that county. For all crops other than forage crops, producers must submit verifiable documentation of the total dollar value loss due to quality, if available, and verifiable documentation of grading factors due to quality.

Documentation to support the quantity of affected production included on the application must be verifiable for non-forage crops that receive a QLA payment based on the producer's total dollar value loss. For all other crops (non-forage crops without a producer's total dollar value loss and all forage crops), records to support the quantity of affected production must be reliable. Reliable production records means evidence provided by the participant that is used to substantiate the amount of production reported when verifiable

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records are not available, including copies of receipts, ledgers of income, income statements of deposit slips, register tapes, invoices for custom harvesting, and records to verify production costs, contemporaneous measurements, truck scale tickets, and contemporaneous diaries that are determined acceptable by the FSA county committee. To determine whether the records are acceptable, the FSA county committee will consider whether they are consistent with the records of other producers of the crop in that area.

Payment Calculation

QLA Program payments will be calculated using different formulas based on the type of crop (forage or non-forage) and based on the type of documentation submitted. All QLA payments, regardless of whether they are forage or non-forage, and the type of documentation submitted, will be calculated using a 70 percent payment factor. Payments calculated based on a county average loss, as described below, will be subject to an additional payment factor of 50 percent.

For forage crops with verifiable documentation of both the nutrient factors for the affected production and historical nutrient factors for the 3 preceding crop years, payment will be equal to the amount of the producer's total affected production multiplied by the producer's verifiable percentage of loss, multiplied by the average market price determined by FSA, multiplied by 70 percent. The producer's verifiable percentage of loss is determined by comparing the nutrient factor test results for the affected production to the average from the 3 preceding crop years, as documented on the FSA–899, Historical Nutritional Value Weighted Average Worksheet. The average market price for the QLA Program is the price used for NAP established according to 7 CFR 1437.12.

For forage crops with verifiable documentation of nutrient factors for the affected production but without historical nutrient factors for the 3 preceding crop years, the payment will be equal to the amount of the producer's total affected production multiplied by the county average percentage of loss, multiplied by the average market price determined by FSA, multiplied by 70 percent, multiplied by 50 percent.

For affected production of non-forage crops with verifiable documentation of the total dollar value loss due to quality, the QLA Program payment is equal to the producer's total dollar value loss on the affected production of the crop, multiplied by a payment factor of 70 percent.

For non-forage crops without verifiable documentation of a total dollar value loss but with verifiable documentation of grading factors due to quality, the payment will be equal to the amount of producer's affected production multiplied by the county average loss per unit of measure, multiplied by 70 percent, multiplied by 50 percent.

To determine the county average percentage of loss (for forage crops) or the county average loss per unit of measure (for non-forage crops), FSA will calculate the average loss for a crop based on losses of producers applying with verifiable documentation of historical nutritional factors (for forage crops) or the total dollar value loss (for non-forage crops) if at least 5 eligible producers submitted that documentation in the county. If less than 5 eligible producers in a county submit verifiable documentation of their historical nutritional factors or their total dollar value loss, FSA will determine a county average percentage of loss or county average loss per unit of measure based on the best available data, including losses of other QLA Program participants in contiguous counties. If sufficient data is still not available after considering other sources, FSA may determine that a county average cannot be calculated and producers in that county applying for payment under the applicable calculation are ineligible.

Payments for the QLA Program will not be issued until the application period has ended in order to allow FSA to determine the county average losses, as well as the total payments requested under the QLA Program. The Further Consolidated Appropriations Act, 2020 provides funding for the QLA Program to be available until December 31, 2021, in an amount equal to the remaining funds provided under the Bipartisan Budget Act of 2018 (Pub. L. 115–123) for losses due to Hurricanes Harvey, Irma, Maria, and other hurricanes and wildfires occurring in calendar year 2017,[2] and remaining funds provided under the Disaster Relief Act for losses due to Hurricanes Michael and Florence, other hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.[3] If the total amount of calculated QLA Program payments exceeds the amount of funding available, FSA will prorate all payments by a national factor.

A person or legal entity, other than a joint venture or general partnership, is eligible to receive, directly or indirectly, up to $125,000 per crop year in QLA Program payments. FSA will use the notification of interest provisions in 7 CFR 1400.107 and payment attribution provisions in 7 CFR 1400.105 for attributing and limiting payments to persons and legal entities. FSA will also use provisions in 7 CFR 1400.104 when changes in a farming operation result in an increase in persons to which payment limitation applies. Payments made to a joint operation (including a general partnership or joint venture) cannot exceed $250,000 per person or legal entity that comprise the ownership of the joint operation. Payments made to a legal entity will be reduced proportionately by an amount that represents the direct or indirect ownership in the legal entity by any person or legal entity that has otherwise reached the maximum payment limitation. These rules for attributing and limiting payments are consistent with the programs FSA administers on behalf of the Commodity Credit Corporation.

A person or legal entity, other than a joint venture or general partnership, is ineligible for a 2018, 2019, or 2020 payment if the person's or legal entity's average adjusted gross income (AGI) is more than $900,000, unless at least 75 percent of that person's or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. The average AGI for each of the program years 2018, 2019, or 2020, is determined using the average of the adjusted gross incomes for the 3 taxable years preceding the most immediately preceding taxable year. For example, for the 2019 program year, the producer's AGI would be based on the 2015, 2016, and 2017 tax years. If at least 75 percent of the person's or legal entity's AGI is derived from farming, ranching, or forestry-related activities and the participant provides the required certification and documentation, the person or legal entity is eligible to

[2] FSA provided assistance for losses due to Hurricanes Harvey, Irma, Maria, and other hurricanes and wildfires occurring in calendar year 2017 through the 2017 Wildfires and Hurricanes Indemnity Program (2017 WHIP) (final rule published July 18, 2018, 83 FR 33795–33809) and the Florida Citrus Recovery Grant Program.

[3] FSA has previously provided assistance for losses due to Hurricanes Michael and Florence, other hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019 through the Wildfires and Hurricanes Indemnity Program Plus (WHIP+), On-Farm Storage Loss Program, and Milk Loss Program (final rule published September 13, 2019, 84 FR 48518–48537), as well as through several grants and cooperative agreements with sugar beet cooperatives.

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receive QLA Program payments up to the applicable payment limitation noted above. With respect to joint ventures and general partnerships, this AGI provision will be applied to each member of the joint venture and general partnership.

Requirement to Purchase Crop Insurance or NAP Coverage

The Disaster Relief Act requires all participants who receive QLA Program payments to purchase crop insurance or NAP coverage for the next 2 available crop years. The latest year for meeting compliance with this provision will be the 2023 crop year. In other words, if the 2 consecutive years of coverage are not met by 2023 coverage year, the participant is ineligible for and must refund QLP Program payments. Participants must obtain crop insurance or NAP, as may be applicable, at the 60 percent coverage level or higher. In situations where crop insurance is unavailable for a crop, the Disaster Relief Act requires that a QLA Program participant obtain NAP coverage. Section 1001D of the Food Security Act of 1985 (1985 Farm Bill) provides that a person or entity with AGI in amount greater than $900,000 is not eligible to participate in NAP; however, producers with an AGI greater than $900,000 may be eligible for the QLA Program if at least 75 percent of that person's or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. Accordingly, in order to reconcile this restriction in the 1985 Farm Bill and the Disaster Relief Act's requirement to obtain NAP or crop insurance coverage, QLA Program participants may meet the Disaster Relief Act's purchase requirement by purchasing Whole-Farm Revenue Protection crop insurance coverage, if eligible, or they may pay the applicable NAP service fee and premium for the 60 percent coverage level despite their ineligibility for a NAP payment. In other words, the service fee and premium must be paid even though no NAP payment may be made because the AGI of the person or entity exceeds the 1985 Farm Bill limitation.

The crop insurance and NAP coverage requirements are specific to the crop and county (county where the crop is physically located for insurance and administrative county for NAP) for which QLA Program payments are paid. This means that a producer is required to purchase crop insurance or NAP coverage for the crop in the county for which the producer was issued a QLA Program payment. Producers who receive a payment on a crop in a county and who have the crop or crop acreage in subsequent years, as provided in this rule, and who fail to obtain the 2 years of crop insurance or NAP coverage must refund all QLA Program payments for that crop in that county with interest from the date of disbursement. This is a condition of payment eligibility specified by Disaster Relief Act and is therefore not subject to partial payment eligibility or other types of equitable relief. Producers who were paid under the QLA Program for a crop in a county but do not plant that crop in a subsequent year are not subject to the crop insurance or NAP purchase requirement. WHIP+ participants who already met the requirement to purchase crop insurance or NAP coverage as specified in 7 CFR 760.1517 are considered to have also met the requirement to purchase crop insurance or NAP coverage for QLA Program purposes, and they are not required to obtain additional years of crop insurance or NAP coverage as a result of also receiving a QLA Program payment for that crop.

Applicable general eligibility requirements, including recordkeeping requirements and required compliance with HELC and Wetland Conservation provisions, are similar to those for the previous ad hoc crop disaster programs and current permanent disaster programs. All information provided to FSA for program eligibility and payment calculation purposes, including production records, is subject to spot check.

WHIP+

FSA, on behalf of the Secretary of Agriculture, previously implemented provisions of the Disaster Relief Act by establishing WHIP+ through a final rule published on September 19, 2019 (84 FR 48518–48537). The Disaster Relief Act provided assistance for losses of crops, trees, bushes, and vines, as a consequence of hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. WHIP+ covers only production losses of crops except in specific circumstances discussed previously in this document when the producer may have also been compensated for quality losses.

This rule amends 7 CFR 760.1500(c) and the definition of ''qualifying disaster event'' in § 760.1502 to include excessive moisture and qualifying drought. As under the QLA Program, drought is only considered a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year. This rule adds definitions of ''qualifying drought'' and ''U.S. Drought Monitor'' in § 760.1502.

The addition of these qualifying disaster events for WHIP+ was self-enacting as the text in the law clearly specified the required changes without need for interpretation; therefore, FSA began the sign-up period for losses due to excessive moisture and qualifying drought on March 23, 2020, and sign-up ended on October 30, 2020. Producers applying for WHIP+ assistance for losses due to excessive moisture or qualifying drought were required to meet all requirements in 7 CFR part 760, subpart O, including the requirement to purchase crop insurance for 2 years as specified in § 760.1517.

The Further Consolidated Appropriations Act, 2020 also directed the Secretary to pay sugar beet losses in 2018 and 2019 through cooperative processors. FSA has established cooperative agreements with sugar beet processors; those processors will be responsible for distributing assistance to their members. This rule amends the eligibility provisions in § 760.1517 to specify that members of cooperatives are not eligible for a WHIP+ payment for sugar beet losses.

FSA is also updating § 760.1510(a) to reflect the application deadline of October 30, 2020, and correcting references in §§ 760.1508(c) and (f) and 760.1511(a)(6).

Notice and Comment and Effective Date

The Administrative Procedure Act (5 U.S.C. 553) provides that the notice and comment and 30-day delay in the effective date provisions do not apply when the rule involves a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts. This rule involves programs for payments to certain agricultural commodity producers and therefore falls within that exemption. Due to the nature of the rule and the need to implement the regulations expeditiously to provide assistance to agricultural producers, FSA finds that notice and public procedure are contrary to the public interest. Therefore, even though this rule is a major rule for purposes of the Congressional Review Act, FSA is not required to delay the effective date for 60 days from the date of publication to allow for Congressional review. Therefore, this rule is effective upon publication in the **Federal Register**.

Executive Orders 12866, 13563, 13771 and 13777

Executive Order 12866, ''Regulatory Planning and Review,'' and Executive

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Order 13563, ''Improving Regulation and Regulatory Review,'' direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13777, ''Enforcing the Regulatory Reform Agenda,'' established a Federal policy to alleviate unnecessary regulatory burdens on the American people.

The Office of Management and Budget (OMB) designated this rule as economically significant under Executive Order 12866, and therefore, OMB has reviewed this rule. The costs and benefits of this rule are summarized below. The full cost benefit analysis is available on *regulations.gov.*

Executive Order 13771, titled Reducing Regulation and Controlling Regulatory Costs, was issued on January 30, 2017. The OMB guidance in M–17–21, dated April 5, 2017, specifies that ''transfers'' are not covered by Executive Order 13771 but that requirements imposed apart from transfers in transfer rules may qualify as costs or cost savings under Executive Order 13771, for example the information collection requirements in this rule. This rule is not subject to the requirements of E.O. 13771 because this rule results in no more than de minimis costs.

Cost Benefit Analysis Summary

WHIP+ initially provided approximately $3 billion in supplemental assistance to producers for qualifying agricultural production losses. In the Further Consolidated Appropriations Act, 2020, Congress changed provisions of the Disaster Relief Act as follows:

1. Extended eligibility under WHIP+ to also cover [4]—

a. Crop production losses due to excessive moisture in calendar years 2018 and 2019;

b. Crop production losses due to drought in calendar years 2018 and 2019 if the area within the county in which the loss occurred was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year;

2. Provided assistance for sugar beet losses in 2018 and 2019 to be paid through cooperative processors; [5] and

3. Authorized assistance for crop quality losses that occurred in calendar years 2018 and 2019 through the QLA Program (implemented by this rule).

Eligible crops under the QLA Program include crops for which Federal crop insurance or NAP coverage is available. To be eligible for the QLA Program, a crop must have suffered a quality loss due to a qualifying disaster event and had at least a 5 percent quality discount due to a combination of the qualifying disaster event and any other QLA-eligible causes of loss. Eligible crops may have been sold, fed on farm to livestock, or been in storage at the time of application.

USDA estimates the Further Consolidated Appropriations Act, 2020 will provide approximately $950 million for the continuation of disaster assistance program delivery, including payments to eligible producers for production losses due to excessive moisture and extreme drought under WHIP+ and for quality losses covered by the QLA Program. Of that amount, USDA anticipates that an estimated $500 million will be available for QLA Program payments. However, the amount of funding ultimately available for the QLA Program will not be known until other payments, for example for excessive moisture and drought under WHIP+, are finalized.

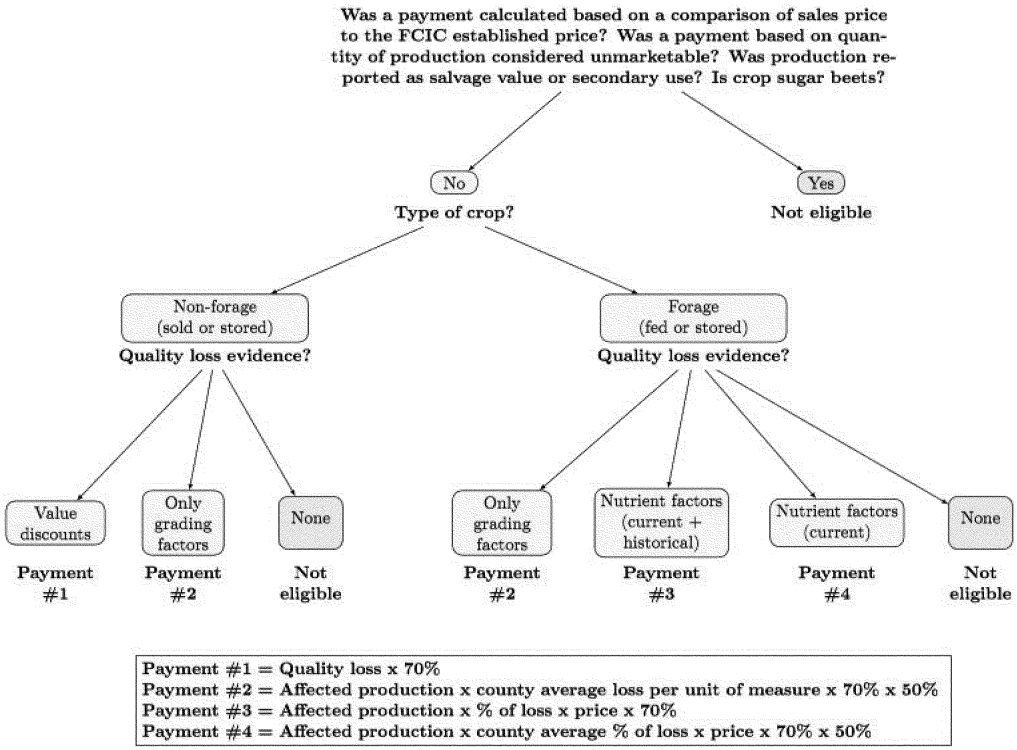
The QLA Program payment calculation depends on several factors, as shown in Figure 1. A producer is ineligible for a QLA Program payment if they received a crop insurance indemnity, NAP payment, or WHIP+ payment for a crop that was unmarketable, sold for salvage value or secondary use, or if the payment was based on a comparison of the sales price of the affected production and the applicable reference price. Otherwise, payments or benefits received under the Federal crop insurance, NAP or WHIP+ do not affect a producer's eligibility or payment received from the QLA Program. The payment calculation depends on the use of production (non-forage or forage) and evidence at hand of the crop quality loss. Producers who do not have evidence of the quality loss are ineligible.

[4] The addition of excessive moisture and certain drought conditions as qualifying causes of loss under WHIP+ is specific, not open to interpretation, and is therefore self-enacting. Accordingly, the provision was previously implemented. FSA began the sign-up period on March 23, 2020, and sign-up ended on October 30, 2020.

[5] Assistance for sugar beet losses for members of cooperative processors is provided through a separate program.

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Figure 1. Eligibility and Payment Calculation



Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA, Pub. L. 104–121), generally requires an agency to prepare a regulatory flexibility analysis of any rule whenever an agency is required by the Administrative Procedure Act or any other law to publish a proposed rule, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule is not subject to the Regulatory Flexibility Act because USDA is not required by Administrative Procedure Act or any law to publish a proposed rule for this rulemaking.

Environmental Review

The environmental impacts of this final rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and the FSA regulation for compliance with NEPA (7 CFR part 799). The legislative intent for implementing the QLA Program is to provide assistance to producers who suffered eligible crop quality losses due to hurricanes, excessive moisture, floods, drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.

While OMB has designated this rule as ''economically significant'' under Executive Order 12866, ''economic or social effects are not intended by themselves to require preparation of an environmental impact statement'' (see 40 CFR 1502.16(b)), when not interrelated to natural or physical environmental effects.

For this rule, the FSA Categorical Exclusions found in 7 CFR 799.31 apply, specifically 7 CFR 799.31(b)(6)(iii), (iv), and (vi) (that is, § 799.31(b)(6)(iii) Financial assistance to supplement income, manage the supply of agricultural commodities, or influence the cost or supply of such commodities or programs of a similar nature or intent (that is, price support programs); § 799.31(b)(6)(iv) Individual farm participation in FSA programs where no ground disturbance or change in land use occurs as a result of the proposed action or participation; and § 799.31(b)(6)(vi) Safety net programs administered by FSA). No Extraordinary Circumstances (7 CFR 799.33) exist.

For the outlined reasons, FSA has determined that the implementation of the QLA Program and the participation in the QLA Program does not constitute a major Federal action that would significantly affect the quality of the human environment, individually or cumulatively. Therefore, FSA will not prepare an environmental assessment or environmental impact statement for this regulatory action.

Executive Order 12372

Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' requires consultation with State and local officials that would be directly affect by proposed Federal financial assistance. The objectives of the Executive order are to foster an intergovernmental partnership and a strengthened federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance and direct Federal development. For reasons specified in the final rule related notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs and activities

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within this rule are excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, ''Civil Justice Reform.'' This rule will not preempt State or local laws, regulations, or policies unless they represent an irreconcilable conflict with this rule. The rule will not have retroactive effect. Before any judicial action may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR parts 11 and 780 must be exhausted.

Executive Order 13132

This rule has been reviewed under Executive Order 13132, ''Federalism.'' The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, except as required by law. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

The USDA's Office of Tribal Relations (OTR) has assessed the impact of this rule on Indian Tribes and determined that this rule may have significant Tribal implications that require ongoing adherence to Executive Order 13175. OTR notes that the programs are similar to programs that have been administered by FSA and RMA in the past; having not heard any concerns regarding the administration of these in the past, and the fact that provisions are mandated in the Disaster Relief Act, OTR recommended that consultation is not required at this time. Tribes can request consultation at any time. FSA will work with OTR to ensure meaningful consultation is provided where changes, additions, and modifications identified in this rule are not expressly mandated by law.

The Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104–4) requires Federal agencies to assess the effects of their regulatory actions on State local, and Tribal governments or the private sector. Agencies generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures of $100 million or more in any 1 year for State, local, or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates, as defined in Title II of UMRA, for State, local, and Tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, FSA submitted the QLA Program information collection request to OMB for emergency approval. OMB approved the 6-month emergency information collection.

E-Government Act Compliance

FSA is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Federal Assistance Programs

The titles and numbers of the Federal Domestic Assistance Program found in the Catalog of Federal Domestic Assistance to which this rule applies are:

10.129—Wildfire and Hurricanes Indemnity Program Plus
10.133—Quality Loss Adjustment Program

List of Subjects in 7 CFR Part 760

Dairy products, Indemnity payments, Reporting and recordkeeping requirements.

For the reasons discussed above, FSA amends 7 CFR part 760 as follows:

PART 760—INDEMNITY PAYMENT PROGRAMS

■ 1. Revise the authority citation for part 760 to read as follows:

Authority: 7 U.S.C. 4501 and 1531; 16 U.S.C. 3801, note; 19 U.S.C. 2497; Title III, Pub. L. 109–234, 120 Stat. 474; Title IX, Pub. L. 110–28, 121 Stat. 211; Sec. 748, Pub. L. 111–80, 123 Stat. 2131; Title I, Pub. L. 115–123, 132 Stat. 65; Title I, Pub. L. 116–20, 133 Stat. 871; and Division B, Title VII, Pub. L. 116–94, 133 Stat. 2658.

Subpart O—Agricultural Disaster Indemnity Programs

§ 760.1500 [Amended]

■ 2. In § 760.1500(c), remove the words ''and wildfires'' and add ''wildfires, excessive moisture, and qualifying drought'' in their place.

■ 3. Amend § 760.1502 as follows:

■ a. In the definition of ''Qualifying disaster event'', in paragraph (2) of remove the word ''wildfire'' and add ''wildfire, excessive moisture, qualifying drought'' in its place; and

■ b. Add the definitions of ''Qualifying drought'' and ''U.S. Drought Monitor'' in alphabetical order.

The additions read as follows:

§ 760.1502 Definitions.

* * * * *

Qualifying drought means an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year.

* * * * *

U.S. Drought Monitor is a system for classifying drought severity according to a range of abnormally dry to exceptional drought. It is a collaborative effort between Federal and academic partners, produced on a weekly basis, to synthesize multiple indices, outlooks, and drought impacts on a map and in narrative form. This synthesis of indices is reported by the National Drought Mitigation Center at *http://droughtmonitor.unl.edu.*

* * * * *

■ 4. In § 760.1503, add paragraph (j) to read as follows.

§ 760.1503 Eligibility.

* * * * *

(j) Members of cooperative processors are not eligible for WHIP+ assistance for sugar beet losses.

§ 760.1508 [Amended]

■ 5. Amend § 760.1508 as follows:

■ a. In paragraph (c), remove the cross reference ''paragraph (b)(1)'' and add the cross reference ''paragraph (b)'' in its place; and

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■ b. In paragraph (f), remove the cross reference ''paragraph (b)(1)'' and add cross reference ''paragraph (e)'' in its place.

§ 760.1510 [Amended]

■ 6. In § 760.1510(a), remove the words ''a date that will be announced by the Deputy Administrator'' and add ''October 30, 2020'' in their place.

§ 760.1511 [Amended]

■ 7. In § 760.1511(a)(6), remove the cross reference ''paragraph (f)'' and add cross reference ''paragraph (g)'' in its place.

■ 8. Add subpart R, consisting of §§ 760.1800 through 760.1814, to read as follows:

Subpart R—Quality Loss Adjustment Program

Sec.

760.1800 Applicability.
760.1801 Administration.
760.1802 Definitions.
760.1803 Participant eligibility.
760.1804 Eligibility of affected production.
760.1805 Qualifying disaster events.
760.1806 Ineligible losses.
760.1807 Miscellaneous provisions.
760.1808 General provisions.
760.1809 Payment and adjusted gross income limitation.
760.1810 Time and method of application.
760.1811 Required documentation and verification.
760.1812 Payment calculation.
760.1813 Availability of funds and timing of payments.
760.1814 Requirement to purchase crop insurance or NAP coverage.

§ 760.1800 Applicability.

This subpart specifies the terms and conditions for the Quality Loss Adjustment (QLA) Program. The QLA Program provides disaster assistance for crop quality losses that were a consequence of hurricanes, excessive moisture, floods, qualifying drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.

§ 760.1801 Administration.

(a) The QLA Program is administered under the general supervision of the Administrator, Farm Service Agency (FSA), and the Deputy Administrator for Farm Programs, FSA. The QLA Program is carried out by FSA State and county committees with instructions issued by the Deputy Administrator.

(b) FSA State and county committees, and representatives and their employees, do not have authority to modify or waive any of the provisions of the regulations in this subpart or instructions issued by the Deputy Administrator.

(c) The FSA State committee will take any action required by the regulations in this subpart that the FSA county committee has not taken. The FSA State committee will also:

(1) Correct, or require an FSA county committee to correct, any action taken by the FSA county committee that is not in accordance with the regulations in this subpart; or

(2) Require an FSA county committee to withhold taking any action that is not in accordance with this subpart.

(d) No delegation to an FSA State or county committee precludes the FSA Administrator or the Deputy Administrator from determining any question arising under this subpart or from reversing or modifying any determination made by an FSA State or county committee.

(e) The Deputy Administrator has the authority to:

(1) Permit State and county committees to waive or modify a non-statutory deadline specified in this subpart; and

(2) Delegate authority to FSA State or county committees to make determinations under § 760.1812(f) and (g).

(f) Items of general applicability to program participants, including, but not limited to, application periods, application deadlines, internal operating guidelines issued to FSA State and county offices, prices, and payment factors established under this subpart, are not subject to appeal in accordance with part 780 of this chapter.

§ 760.1802 Definitions.

The following definitions apply to this subpart. The definitions in §§ 718.2 and 1400.3 of this title also apply, except where they conflict with the definitions in this section. In the event of conflict, the definitions in this section apply.

Affected production means the producer's ownership share of harvested production of an eligible crop, adjusted to standard moisture as established by the U.S. Grains Standards Act, a State regulatory agency, or industry standard, that had both:

(1) A quality loss due to a qualifying disaster event; and

(2) At least a 5 percent quality loss due to all eligible disaster events.

Average market price means the average market price determined according to § 1437.12 of this title.

Coverage level means the percentage determined by multiplying the elected yield percentage under a crop insurance policy or NAP coverage by the elected price percentage.

Crop insurance means an insurance policy reinsured by FCIC under the provisions of the Federal Crop Insurance Act, as amended. It does not include private plans of insurance.

Crop insurance indemnity means, for the purpose of this subpart, the payment to a participant for crop losses covered under crop insurance administered by RMA in accordance with the Federal Crop Insurance Act (7 U.S.C. 1501–1524).

Crop year means:

(1) For insurable crops, the crop year as defined according to the applicable crop insurance policy; and

(2) For NAP-eligible crops, the crop year as defined in § 1437.3 of this title.

Eligible crop means a crop for which coverage was available either from FCIC under part 400 of this title, or through NAP under § 1437.4 of this title.

Eligible disaster event means a disaster event that is an eligible cause of loss specified in § 1437.10 of this title, excluding insect infestation.

FCIC means the Federal Crop Insurance Corporation, a wholly owned Government Corporation of USDA, administered by RMA.

FSA means the Farm Service Agency, an agency of USDA.

Grading factor means a factor that describes the physical condition or a feature that is evaluated to determine the quality of the production, such as broken kernels and low-test weight.

Good farming practices means the cultural practices generally recognized as compatible with agronomic and weather conditions and used for the crop to make normal progress toward maturity, as determined by FSA. These practices are:

(1) For conventional farming practices, those generally recognized by agricultural experts for the area, which could include one or more counties; or

(2) For organic farming practices, those generally recognized by the organic agricultural experts for the area or contained in the organic system plan that is in accordance with the National Organic Program specified in part 205 of this title.

Harvested means:

(1) For insurable crops, harvested as defined according to the applicable crop insurance policy;

(2) For NAP-eligible single harvest crops, that a crop has been removed from the field, either by hand or mechanically;

(3) For NAP-eligible crops with potential multiple harvests in 1 year or harvested over multiple years, that the producer has, by hand or mechanically, removed at least 1 mature crop from the field during the crop year; and

(4) For mechanically harvested NAP-eligible crops, that the crop has been

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removed from the field and placed in a truck or other conveyance, except hay is considered harvested when in the bale, whether removed from the field or not.

Insurable crop means an agricultural crop (excluding livestock) for which the producer on a farm is eligible to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501–1524).

Multiple market crop means a crop that is delivered to a single market but can have fresh and processed prices based on grading. For example, a producer may intend to sell all production of an apple crop as fresh production; however, based on grading of the crop at the market, the producer is compensated for some production at the fresh price and for some production at the processing price.

Multiple planting means the planting for harvest of the same crop in more than one planting period in a crop year on different acreage.

NAP means the Noninsured Crop Disaster Assistance Program under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) and part 1437 of this title.

NAP-eligible crop means an agricultural crop for which the producer on a farm is eligible to obtain NAP coverage.

NAP service fee means the amount specified in § 1437.7 of this title that the producer must pay to obtain NAP coverage.

Nutrient factor means a factor determined by a test that measures the nutrient value of a crop to be fed to livestock. Examples include, but are not limited to, relative feed value and total digestible nutrients.

Production means quantity of the crop produced, which is expressed in a specific unit of measure including, but not limited to, bushels or pounds.

QLA Program means the Quality Loss Adjustment Program.

Qualifying disaster event means a hurricane, flood, tornado, typhoon, volcanic activity, snowstorm, wildfire, excessive moisture, qualifying drought, or a related condition that occurred in the 2018 or 2019 calendar year.

Qualifying drought means an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year.

Quality loss means:

(1) For forage crops, a reduction in an applicable nutrient factor for the crop; and

(2) For crops other than forage, a reduction in the total dollar value of the crop due to reduction in the physical condition of the crop indicated by an applicable grading factor.

Related condition means damaging weather or an adverse natural occurrence that occurred as a direct result of a specified qualifying disaster event, such as excessive rain, high winds, flooding, mudslides, and heavy smoke, as determined by the Deputy Administrator. The term does not include insect infestation.

Reliable production record means evidence provided by the participant that is used to substantiate the amount of production reported when verifiable records are not available, including copies of receipts, ledgers of income, income statements of deposit slips, register tapes, invoices for custom harvesting, and records to verify production costs, contemporaneous measurements, truck scale tickets, and contemporaneous diaries that are determined acceptable by the FSA county committee. To determine whether the records are acceptable, the FSA county committee will consider whether they are consistent with the records of other producers of the crop in that area.

RMA means the Risk Management Agency, an agency of USDA.

Salvage value means the dollar amount or equivalent for the quantity of the commodity that cannot be marketed or sold in any recognized market for the crop.

Secondary use means the harvesting of a crop for a use other than the intended use.

Unit of measure means:

(1) For insurable crops, the FCIC-established unit of measure; and

(2) For NAP-eligible crops, the established unit of measure used for the NAP price and yield.

USDA means the U.S. Department of Agriculture.

U.S. Drought Monitor is a system for classifying drought severity according to a range of abnormally dry to exceptional drought. It is a collaborative effort between Federal and academic partners, produced on a weekly basis, to synthesize multiple indices, outlooks, and drought impacts on a map and in narrative form. This synthesis of indices is reported by the National Drought Mitigation Center at *http://droughtmonitor.unl.edu.*

Value loss crop has the meaning specified in subpart D of part 1437 of this title.

Verifiable documentation means evidence that can be verified by FSA through an independent source.

Verifiable percentage of loss is the percentage of loss determined by comparing the applicable nutrient factors for a producer's affected production of a forage crop with the average of such nutrient factors from the 3 preceding crop years, as documented on FSA–899, Historical Nutritional Value Weighted Average Worksheet.

WHIP+ means the Wildfires and Hurricanes Indemnity Program Plus under subpart O of this part.

§ 760.1803 Participant eligibility.

(a) Participants will be eligible to receive a payment under this subpart only if they incurred a loss to an eligible crop due to a qualifying disaster event, as further specified in this subpart.

(b) To be an eligible participant under this subpart, a person or legal entity must be a:

(1) Citizen of the United States;

(2) Resident alien; for purposes of this subpart, resident alien means ''lawful alien'' (see § 1400.3 of this title);

(3) Partnership consisting solely of citizens of the United States or resident aliens; or

(4) Corporation, limited liability company, or other similar organizational structure organized under State law consisting solely of citizens or resident aliens of the United States.

(c) If any person who would otherwise be eligible to receive a payment dies before the payment is received, payment may be released as specified in § 707.3 of this chapter. Similarly, if any person or legal entity who would otherwise have been eligible to apply for a payment dies or is dissolved, respectively, before the payment is applied for, payment may be released in accordance with this subpart if a timely application is filed by an authorized representative. Proof of authority to sign for the deceased producer or dissolved entity must be provided. If a participant is now a dissolved general partnership or joint venture, all members of the general partnership or joint venture at the time of dissolution or their duly authorized representatives must sign the application. Eligibility of such participant will be determined, as it is for other participants, based upon ownership share and risk in producing the crop.

(d) An ownership share is required to be eligible for a payment under this subpart. Growers growing eligible crops under contract for crop owners are not eligible for a payment under this subpart unless the grower is also determined to have an ownership share of the crop. Any verbal or written contract that precludes the grower from having an ownership share renders the

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grower ineligible for payments under this subpart.

(e) A person or legal entity is not eligible to receive assistance under this subpart if FSA determines that the person or legal entity:

(1) Adopted any scheme or other device that tends to defeat the purpose of this subpart or any of the regulations applicable to this subpart;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination under any or all of the following: This subpart and parts 12, 400, 1400, and 1437 of this title.

(f) A person who is ineligible for crop insurance or NAP under § 400.458 or § 1437.16 of this title, respectively, for any year is ineligible for payments under this subpart for the same year.

(g) The provisions of § 718.11 of this chapter, providing for ineligibility for payments for offenses involving controlled substances, apply.

(h) As a condition of eligibility to receive payments under this subpart, the participant must have been in compliance with the Highly Erodible Land Conservation and Wetland Conservation provisions of part 12 of this title for the applicable crop year for which the producer is applying for benefits under this subpart, and must not otherwise be precluded from receiving payments under part 12, 400, 1400, or 1437 of this title or any law.

§ 760.1804 Eligibility of affected production.

(a) To be eligible for the QLA Program, an eligible crop's affected production must have suffered a quality loss due to a qualifying disaster event and had at least a 5 percent quality loss due to all eligible disaster events. Whether affected production of a crop had a 5 percent loss will be determined separately for crops with different crop types, intended uses, certified organic or conventional status, county, and crop year.

(b) Affected production of the following is not eligible for the QLA Program:

(1) Crops that were not grown commercially;

(2) Crops that were intended for grazing or were grazed;

(3) Crops not intended for harvest;

(4) Volunteer crops;

(5) Value loss crops;

(6) Maple sap;

(7) Honey;

(8) By-products resulting from processing or harvesting a crop, such as, but not limited to, cotton seed, peanut shells, wheat or oat straw, or corn stalks or stovers;

(9) First-year seeding for forage production;

(10) Immature fruit crops;

(11) Crops for which FCIC coverage or NAP coverage is unavailable;

(12) Multiple market crops for which the producer previously received a crop insurance indemnity or WHIP+ payment for a quality loss;

(13) Crops for which production used to calculate a crop insurance indemnity or WHIP+ payment was adjusted based on a comparison of the producer's sale price to FCIC established price;

(14) Crops that received a crop insurance indemnity, NAP payment, or WHIP+ payment based on the quantity of production that was considered unmarketable;

(15) Crops for which the producer previously received a crop insurance indemnity, NAP payment, or WHIP+ payment for which production was reported as salvage value or secondary use;

(16) Sugar beets for which a member of a cooperative processor received a payment through a cooperative agreement; and

(17) Crops that were destroyed.

(c) Only affected production from initial crop acreage will be eligible for a QLA Program payment, unless the provisions for subsequent crops in this section are met. All plantings of an annual or biennial crop are considered the same as a planting of an initial crop in tropical regions as defined in part 1437, subpart F, of this title.

(d) In cases where there is double cropped acreage, affected production of each crop may be eligible only if the specific crops are approved by the FSA State committee as eligible double cropping practices in accordance with procedures approved by the Deputy Administrator.

(e) Participants having affected production from multiple plantings may receive payments for each planting only if the planting meets the requirements of part 1437 of this title and all other provisions of this subpart are satisfied.

§ 760.1805 Qualifying disaster events.

(a) A producer is eligible for payments under this subpart only if the producer's affected production of an eligible crop suffered a crop quality loss due to a qualifying disaster event.

(b) A crop quality loss due to a qualifying disaster event must have occurred on acreage that was physically located in a county that received a:

(1) Presidential Emergency Disaster Declaration authorizing public assistance for categories C through G or individual assistance due to a qualifying disaster event occurring in the 2018 or 2019 calendar years; or

(2) Secretarial Disaster Designation for a qualifying disaster event occurring in the 2018 or 2019 calendar years.

(c) A producer with a crop quality loss on acreage not physically located in a county that was eligible under paragraph (b) of this section will be eligible for the QLA Program for losses due to qualifying disaster events only if the producer provides supporting documentation from which the FSA county committee determines that the crop quality loss on the unit was reasonably related to a qualifying disaster event as specified in this subpart. Supporting documentation may include furnishing climatological data from a reputable source or other information substantiating the claim of loss due to a qualifying disaster event.

§ 760.1806 Ineligible losses.

(a) A loss is not eligible under this subpart if any of the following apply:

(1) The cause of loss is determined by FSA to be the result of poor management decisions, poor farming practices, or drifting herbicides;

(2) The loss could have been mitigated using good farming practices, including losses due to high moisture content that could be mitigated by following best practices for drying and storing the crop;

(3) The qualifying disaster event occurred after the crop was harvested;

(4) FSA or RMA have previously disapproved a notice of loss for the crop and disaster event, unless that notice of loss was disapproved solely because it was filed after the applicable deadline; or

(5) The cause of loss was due to:

(i) Conditions or events occurring outside of the applicable growing season for the crop;

(ii) Insect infestation;

(iii) Water contained or released by any governmental, public, or private dam or reservoir project if an easement exists on the acreage affected by the containment or release of the water;

(iv) Failure of a power supply or brownout; or

(v) Failure to harvest or market the crop due to lack of a sufficient plan or resources.

(b) [Reserved]

§ 760.1807 Miscellaneous provisions.

(a) All persons with a financial interest in a legal entity receiving payments under this subpart are jointly and severally liable for any refund, including related charges, that is determined to be due to FSA for any reason.

(b) In the event that any application under this subpart resulted from

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erroneous information or a miscalculation, the payment will be recalculated and any excess refunded to FSA with interest to be calculated from the date of the disbursement.

(c) Any payment to any participant under this subpart will be made without regard to questions of title under State law, and without regard to any claim or lien against the commodity, or proceeds, in favor of the owner or any other creditor except agencies of the U.S. Government. The regulations governing offsets and withholdings in part 3 of this chapter apply to payments made under this subpart.

(d) Any participant entitled to any payment may assign any payment(s) in accordance with regulations governing the assignment of payments in part 3 of this chapter.

(e) The regulations in parts 11 and 780 of this title apply to determinations under this subpart.

§ 760.1808 General provisions.

(a) Eligibility and payments under this subpart will be determined based on the county where the affected production was harvested.

(b) FSA county committees will make any necessary adjustments to the applicant's affected production and other information on the application form used to calculate a payment when the county committee determines:

(1) Additional documentation has been requested by FSA but has not been provided by the participant;

(2) The loss is due to an ineligible cause; or

(3) The participant has a contract providing a guaranteed payment for all or a portion of the crop.

(c) Unless otherwise specified, all eligibility provisions of part 1437 of this title also apply to tropical crops for eligibility under this subpart.

(d) FSA will use the most reliable data available at the time payments under this subpart are calculated. If additional data or information is provided or becomes available after a payment is issued, FSA will recalculate the payment amount and the producer must return any overpayment amount to FSA. In all cases, payments can only issue based on the payment formula for losses that affirmatively occurred.

(e) Production that is commingled between counties, crop years, or ineligible and eligible acres before it was a matter of record or combination of record and cannot be separated by using records or other means acceptable to FSA will be prorated to each respective year, county, or type of acreage, respectively.

§ 760.1809 Payment and adjusted gross income limitation.

(a) A person or legal entity, other than a joint venture or general partnership, is eligible to receive, directly or indirectly, payments of not more than $125,000 for each of the 2018, 2019, and 2020 crop years under this subpart.

(b) Payments made to a joint operation, including a joint venture or general partnership, cannot exceed the amount determined by multiplying the maximum payment amount specified in paragraph (a) of this section by the number of persons and legal entities, other than joint operations, that comprise the ownership of the joint operation.

(c) The direct attribution provisions in § 1400.105 of this title apply to payments under this subpart.

(d) The notification of interest provisions in § 1400.107 of this title apply to payments under this subpart.

(e) The provisions for recognizing persons added to a farming operation for payment limitation purposes as described in § 1400.104 of this title apply to payments under this subpart.

(f) The $900,000 average AGI limitation provisions in part 1400 of this title relating to limits on payments for persons or legal entities, excluding joint ventures and general partnerships, apply to each applicant for the QLA Program unless at least 75 percent of the person or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. A person's or legal entity's average AGI for each of the program years 2018, 2019 or 2020, is determined by using the average of the adjusted gross incomes for the 3 taxable years preceding the most immediately preceding taxable year. If the person's or legal entity's average AGI is below $900,000 or at least 75 percent of the person or legal entity's average AGI is derived from farming, ranching, or forestry-related activities, the person or legal entity, is eligible to receive payments under this subpart.

§ 760.1810 Time and method of application.

(a) A completed FSA–898, Quality Loss Adjustment (QLA) Program Application, must be submitted in person, by mail, email, or facsimile to any FSA county office by the close of business on March 5, 2020.

(b) An application submitted in accordance with paragraph (a) of this section is not considered valid and complete for issuance of payment under this subpart unless FSA determines all the applicable eligibility provisions have been satisfied and the producer has submitted all of following by March 19, 2020:

(1) Documentation required by § 760.1811;

(2) FSA–578, Report of Acreage, for all acreage for any crop for which payments under this subpart are requested;

(3) FSA–895, Crop Insurance and/or NAP Coverage Agreement; and

(4) For forage crops, FSA–899, Historical Nutritional Value Weighted Average Worksheet, if verifiable documentation of historical nutrient factors is available.

(c) In addition to the forms listed in paragraph (b) of this section, applicants must also submit all the following eligibility forms within 60 days from the date of signing the QLA Program application if not already on file with FSA:

(1) AD–1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation Certification;

(2) CCC–902 Automated, Farm Operating Plan for Payment Eligibility 2009 and Subsequent Program Years;

(3) CCC–941 Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information; and

(4) CCC–942 Certification of Income from Farming, Ranching and Forestry Operations, if applicable.

(d) Failure to submit all required forms by the applicable deadlines in paragraphs (b) and (c) of this section may result in no payment or a reduced payment.

(e) Application approval and payment by FSA does not relieve a participant from having to submit any form required, but not filed, according to this section.

(f) Once signed by a producer, the application is considered to contain information and certifications of and pertaining to the producer regardless of who entered the information on the application.

(g) The producer applying for payment under this subpart certifies the accuracy and truthfulness of the information provided in the application as well as any documentation filed with or in support of the application. All information is subject to verification or spot check by FSA at any time, either before or after payment is issued. Refusal to allow FSA or any agency of the USDA to verify any information provided will result in the participant's forfeiting eligibility for payment under this subpart. FSA may at any time, including before, during, or after processing and paying an application, require the producer to submit any additional information necessary to implement or determine any eligibility

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provision of this subpart. Furnishing information specified in this subpart is voluntary; however, FSA may choose not to act on the application or approve payment if the required information is not provided. Providing a false certification will result in ineligibility and can also be punishable by imprisonment, fines, and other penalties.

§ 760.1811 Required documentation and verification.

(a) If requested by FSA, an applicant must provide documentation that establishes the applicant's ownership share and value at risk in the crop.

(b) The applicant must provide acceptable documentation that is dated and contains all information required to substantiate the applicant's certification to the satisfaction of the FSA county committee. Verifiable documentation is required to substantiate the total dollar value loss and associated affected production, grading factors, and nutritional factors. FSA may verify the records with records on file at the warehouse, gin, or other entity that received or may have received the reported production. Reliable production records are required to substantiate the reported amount of affected production for applications not based on the total dollar value loss.

(c) To be considered acceptable, verifiable documentation for grain crops that were sold may come from any time between harvest and sale of the affected production, unless the FSA county committee determines the record is not representative of the condition within 30 days of harvest. For all other crops, the verifiable documentation must come from tests or analysis completed within 30 days of harvest, unless the FSA county committee determines that the record is representative of the condition of the affected production at time of harvest. Examples of acceptable records for purposes of this paragraph (c) include:

(1) Warehouse grading sheets;

(2) Settlement sheets;

(3) Sales receipts showing grade and price or disposition to secondary market due to quality; and

(4) Laboratory test results.

(d) For forage crops, producers must submit verifiable documentation showing the nutrient factors for the affected production. Producers must also submit verifiable documentation of the historical nutrient factors for the 3 preceding crop years if available. The nutrient factors that must be documented for a crop will determined by the FSA county committee based on the standard practice for the crop in that county.

(e) For all crops other than forage crops, producers must submit verifiable documentation of the total dollar value loss due to quality, if available, and verifiable documentation of grading factors due to quality.

(f) The participant is responsible for:

(1) Retaining, providing, and summarizing, at time of application and whenever required by FSA, the best available verifiable production records for the crop;

(2) Providing the information in a manner that can be easily understood by the FSA county committee; and

(3) Providing supporting documentation about the disaster event if the FSA county committee has reason to question the disaster event.

(e) Participants must provide all records for any production of a crop that is grown with an arrangement, agreement, or contract for guaranteed payment.

(f) Participants are required to retain documentation in support of their application for 3 years after the date of approval.

(g) Participants receiving QLA Program payments or any other person who furnishes such information to USDA must permit authorized representatives of USDA or the Government Accountability Office, during regular business hours, to enter the agricultural operation and to inspect, examine, and make copies of books, records, or other items for the purpose of confirming the accuracy of the information provided by the participant.

§ 760.1812 Payment calculation.

(a) Payments will be calculated separately for crops based on the crop type, intended use, certified organic or conventional status, county, and crop year.

(b) For forage crops with verifiable documentation of nutrient factors for the affected production and for the 3 preceding crop years, the payment will be equal to the producer's total affected production multiplied by the producer's verifiable percentage of loss, multiplied by the average market price, multiplied by 70 percent.

(c) For forage crops with verifiable documentation of nutrient factors for the affected production but not for the 3 preceding crop years, the payment will be equal to the producer's total affected production multiplied by the county average percentage of loss in paragraph (f) of this section, multiplied by the average market price, multiplied by 70 percent, multiplied by 50 percent.

(d) For crops other than forage with verifiable documentation of the total dollar value loss due to quality, the payment will be equal to the producer's total dollar value loss on the affected production, multiplied by 70 percent.

(e) For crops other than forage without verifiable documentation of the total dollar value loss but with verifiable documentation of grading factors, the payment will be equal to the producer's affected production multiplied by the county average loss per unit of measure in paragraph (g) of this section, multiplied by 70 percent, multiplied by 50 percent.

(f) The county average percentage of loss is the average percentage of loss from producers eligible for payment under paragraph (b) of this section if at least 5 producers in a county are eligible for payment for a crop under paragraph (b) of this section. If less than 5 producers in a county are eligible for payment for a crop under paragraph (b) of this section, the Deputy Administrator will:

(1) Determine a county average percentage of loss based on the best available data, including, but not limited to, evidence of losses in contiguous counties; or

(2) If a county average percentage of loss cannot be determined due to insufficient data, not issue payments to applicants under paragraph (c) of this section.

(g) The county average loss per unit of measure is based on the weighted average sales price from producers eligible for payment under paragraph (d) of this section if at least 5 producers in a county are eligible for payment for a crop under paragraph (d) of this section. If less than 5 producers are eligible for payment in a county under paragraph (d) of this section, the Deputy Administrator will:

(1) Determine a county average loss per unit of measure based on the best available data, including, but not limited to, evidence of losses in contiguous counties; or

(2) If a county average loss per unit of measure cannot be determined due to insufficient data, not issue payments to applicants under paragraph (e) of this section.

§ 760.1813 Availability of funds and timing of payments.

(a) Payments will be issued after the application period has ended and all applications have been reviewed by FSA.

(b) In the event that, within the limits of the funding made available by the Secretary, approval of eligible applications would result in payments

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in excess of the amount available, FSA will prorate payments by a national factor to reduce the payments to an amount that is less than available funds as determined by the Secretary.

(c) Applications and claims that are unpaid or prorated for any reason will not be carried forward for payment under other funds for later years or otherwise, but will be considered, as to any unpaid amount, void and nonpayable.

§ 760.1814 Requirement to purchase crop insurance or NAP coverage.

(a) For the first 2 consecutive crop years for which crop insurance or NAP coverage is available after the enrollment period for the QLA Program ends, a participant who receives payment under this subpart for a crop loss in a county must obtain:

(1) For an insurable crop, crop insurance with at least a 60 percent coverage level for that crop in that county; or

(2) For a NAP-eligible crop, NAP coverage with a coverage level of 60 percent.

(b) Participants who exceed the average adjusted gross income limitation for NAP payment eligibility [1] for the applicable crop year may meet the purchase requirement specified in paragraph (a)(2) of this section by purchasing Whole-Farm Revenue Protection crop insurance coverage, if eligible, or paying the NAP service fee and premium even though the participant will not be eligible to receive a NAP payment due to the average adjusted gross income limit.

(c) The final crop year to purchase crop insurance or NAP coverage to meet the requirements of paragraph (a) of this section is the 2023 crop year.

(d) A participant who obtained crop insurance or NAP coverage for the crop in accordance with the requirements for WHIP+ in § 760.1517 is considered to have met the requirement to purchase crop insurance or NAP coverage for the QLA Program.

(e) If a producer fails to obtain crop insurance or NAP coverage as required in this section, the producer must reimburse FSA for the full amount of QLA Program payment plus interest. A producer will only be considered to have obtained NAP coverage for the purposes of this section if the participant submitted a NAP application for coverage and paid the requisite NAP service fee and any applicable premium by the applicable deadline and completed all program requirements required under the coverage agreement, including filing an acreage report.

Richard Fordyce,

Administrator, Farm Service Agency.

[FR Doc. 2020–28914 Filed 1–5–21; 8:45 am]

BILLING CODE 3410–05–P

[1] See §§ 1400.500(a) and 1400.1(a)(4) of this title.

DEPARTMENT OF ENERGY

10 CFR Part 1061

RIN 1990–AA50

Procedures for the Issuance of Guidance Documents

AGENCY: Office of the General Counsel, Department of Energy.

ACTION: Final rule.

SUMMARY: The U.S. Department of Energy (DOE) publishes this final rule to establish procedures for the issuance of DOE guidance documents in accordance with Executive Order 13891. In this final rule, DOE establishes internal agency requirements for the contents of guidance documents, and procedures for providing notice of, and soliciting public comment on, certain guidance documents. This final rule also establishes procedures for the public to petition DOE to modify or withdraw guidance documents.

DATES: The effective date of this rule is February 5, 2021.

ADDRESSES: The docket for this rulemaking, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *https://www.regulations.gov*. All documents in the docket are listed in the *https://www.regulations.gov* index. However, not all documents listed in the index, such as those containing information that is exempt from public disclosure by law, may be publicly available. A link to the docket web page can be found at *https://www.regulations.gov/document?D=DOE-HQ-2020-0033-0001*. The docket web page explains how to access all documents, including public comments, in the docket.

FOR FURTHER INFORMATION CONTACT: Mr. Matthew Ring, U.S. Department of Energy, Office of the General Counsel, Forrestal Building, GC–33, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–2555, Email: *Guidance@hq.doe.gov*.

SUPPLEMENTARY INFORMATION:

I. Summary of Final Rule

In this final rule, DOE incorporates into the Code of Federal Regulations a new 10 CFR part 1061, which implements the requirements of Executive Order 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents.'' (84 FR 55235 (Oct. 15, 2019)) Among other things, Executive Order 13891 requires agencies to provide more transparency for their guidance documents by creating a searchable online database for current guidance documents,[1] and by establishing procedures to allow the public to comment on significant guidance documents and to petition the agency to withdraw or modify guidance documents.[2] Moreover, the Executive Order requires agencies to clearly state in their guidance documents that such guidance does not have the force and effect of law and is not legally binding, except as authorized by law or as incorporated into a contract. (84 FR 55235, 55237)

This final rule applies to all DOE guidance documents, as defined by Executive Order 13891, including the exceptions listed in section 2 of the Executive Order. This final rule also lists specific types of documents and communications that fall within the broader exceptions listed in the Executive Order (*e.g.,* speeches and presentations given by DOE officials, legal positions taken in litigation or enforcement actions). (See also OMB M–20–02, Guidance Implementing Executive Order 13891, Titled ''Promoting the Rule of Law Through Improved Agency Guidance Documents'' (Oct. 31, 2019), available at *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*). This final rule also adopts the same definition of ''significant guidance document'' as section 2 of Executive Order 13891.

In accordance with Executive Order 13891, this final rule requires that all DOE guidance documents clearly state that they do not have the force and effect of law and are not legally binding on the public, and that they are only intended to provide clarity to the public

[1] DOE's online database may be found at *energy.gov/guidance*.

[2] Executive Order 13891 defines ''significant guidance document'' as ''a guidance document that may reasonably be anticipated to: (i) Lead to an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (ii) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (iii) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (iv) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles of Executive Order 12866.'' (84 FR 55235, 55236)

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An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

Elizabeth K. Appel,

Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2021–00317 Filed 1–8–21; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–OIA–31249; PIN00IO14.XI0000]

U.S. Nominations to the World Heritage List; 15-Day Notice of Opportunity for Public Comment

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: This notice requests public comment on the next potential U.S. nominations from the U.S. World Heritage Tentative List (''Tentative List'') to the United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage List. The public may also make suggestions for future additions to the Tentative List. This notice complies with applicable World Heritage Program regulations.

DATES: Comments will be accepted on or before January 26, 2021.

ADDRESSES: You may submit comments by either of the following methods:

- *Mail to:* Jonathan Putnam, Office of International Affairs, National Park Service, 1849 C Street NW, Washington, DC 20240.
- *Email to: jonathan_putnam@nps.gov*. Phone: (202) 354–1809.

Comments will not be accepted in any way other than those specified above.

Information on the U.S. World Heritage program can be found at: *https://www.nps.gov/subjects/internationalcooperation/worldheritage.htm*.

To request a paper copy of the U.S Tentative List, please contact April Brooks, Office of International Affairs, National Park Service, 1849 C Street NW, Room 2415, Washington, DC 20240 (202) 354–1808, or Email: *april_brooks@nps.gov*.

FOR FURTHER INFORMATION CONTACT: Jonathan Putnam, (202) 354–1809.

For the World Heritage nomination format, see the World Heritage Centre website at: *http://whc.unesco.org/en/nominations*.

SUPPLEMENTARY INFORMATION:

Background

The World Heritage List is an international list of cultural and natural properties nominated by the signatories to the World Heritage Convention (1972), an international treaty for the preservation of natural and cultural heritage sites of global significance. U.S. participation and the roles of the Department of the Interior and the National Park Service are authorized by Title IV of the Historic Preservation Act Amendments of 1980 and conducted in accordance with 36 CFR part 73—World Heritage Convention. The National Park Service serves as the principal technical agency for the U.S. Government to the Convention.

A Tentative List is a national list of natural and cultural properties appearing to meet the World Heritage Committee eligibility criteria for nomination to the World Heritage List. It is a list of candidate sites which a country may consider for nomination within a given time period, but does not guarantee future nomination. The World Heritage Committee's *Operational Guidelines* ask participating nations to provide Tentative Lists, which aid in evaluating properties for the World Heritage List on a comparative international basis and help the Committee to schedule its work over the long term. A country cannot nominate a property unless it has been on its Tentative List for a minimum of a year. Countries also are limited at this time to nominating no more than one site in any given year.

Neither inclusion in the Tentative List nor inscription as a World Heritage Site imposes legal restrictions on owners or neighbors of sites, nor does it give the United Nations any management authority or ownership rights in U.S. World Heritage Sites, which continue to be subject to U.S. laws.

Current U.S. World Heritage Tentative List

The current U.S. World Heritage Tentative List includes the following properties:

Cultural Sites

Civil Rights Movement Sites, Alabama [other properties would be added for a complete nomination]

—Dexter Avenue King Memorial Baptist Church, Montgomery
—Bethel Baptist Church, Birmingham
—16th Street Baptist Church, Birmingham

Dayton Aviation Sites, Ohio

—Dayton Aviation Heritage National Historical Park

Hopewell Ceremonial Earthworks, Ohio

—Fort Ancient State Memorial, Warren County
—Hopewell Culture National Historical Park, near Chillicothe
—Newark Earthworks State Historic Site, Newark and Heath

Jefferson (Thomas) Buildings, Virginia (Proposed Jointly as an Extension to the World Heritage Listing of Monticello and the University of Virginia Historic District)

—Poplar Forest, Bedford County
—Virginia State Capitol, Richmond

Mount Vernon, Virginia

Serpent Mound, Ohio

Ellis Island, New Jersey and New York

Chicago Early Skyscrapers, Illinois, including: [Other Properties May Be Added in the Course of Developing a Nomination]

—Rookery
—Auditorium Building
—Monadnock Building
—Ludington Building
—Marquette Building
—Old Colony Building
—Schlesinger & Mayer (Carson, Pirie Scott) Department Store
—Second Leiter Building
—Fisher Building

Central Park, New York

Brooklyn Bridge, New York

Moravian Bethlehem District, Pennsylvania

Natural Sites

National Marine Sanctuary of American Samoa (Formerly Fagatele Bay National Marine Sanctuary, American Samoa)

Okefenokee National Wildlife Refuge, Georgia

Petrified Forest National Park, Arizona

White Sands National Monument, New Mexico

Marianas Trench National Monument, U.S. Territory, Commonwealth of the Northern Mariana Islands, Guam

Central California Current, California, Including

—Cordell Bank National Marine Sanctuary
—Monterey Bay National Marine Sanctuary
—Greater Farallones National Marine Sanctuary
—Farallon Islands National Wildlife Refuge

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NM-OTERO-21-0275-A-000579

—Point Reyes National Seashore
—Golden Gate National Recreation Area

Big Bend National Park, Texas

Pacific Remote Islands National Monument, U.S. Territorial Waters

Notes: (1) A nomination for the Hopewell Ceremonial Earthworks was authorized for preparation in May 2018 by the Department of the Interior and is now under development. (2) The Department has requested and is now awaiting advice from the International Council on Monuments and Sites (ICOMOS) on adding other properties to the proposal for the Civil Rights Movement Sites and its overall justification. (3) The government of the German state of Saxony is proposing an extension to the World Heritage listing of Christiansfeld, a Moravian Church Settlement in Denmark, that would include Herrnhut in Germany, the Moravian Bethlehem District in Bethlehem, Pennsylvania, and potentially other historic Moravian settlements in other countries.

Request for Public Comments

Comments on whether to authorize the preparation of a World Heritage nomination for any of the properties on the Tentative List should address the readiness and ability of the property owner(s) to prepare a satisfactory nomination document. Suggestions for additions to the Tentative List not previously submitted must address: (i) How the property(ies) would meet the World Heritage nomination criteria, requirements for authenticity, integrity, legal protection and management. Information on these criteria and requirements can be found on the website noted in the **FOR FURTHER INFORMATION CONTACT** section of this notice; and (ii) The U.S. legal prerequisites that include the agreement of all property owners to the nomination of their property, an official determination that the property is nationally significant (such as by designation as a National Historic or National Natural Landmark), and effective legal protection. All previous suggestions for the Tentative List made during previous comment periods or otherwise submitted since 2008, have been retained and considered and should not be resubmitted at this time.

Selection and Nomination

All public comments will be summarized and provided to Department of the Interior officials, who will obtain the advice of the Federal Interagency Panel for World Heritage before making any selection of properties for authorization to prepare a World Heritage nomination. The selection may include relevant factors, such as the likelihood of being able to complete a satisfactory nomination, and the fact that the United States is currently prohibited by law from providing any funding to UNESCO, including UNESCO and World Heritage member dues. Once authorized, the property owners may prepare a draft nomination.

The Department does not have a fixed schedule for completing or submitting World Heritage nominations. No more than one nomination from any country may be submitted per year, per the UNESCO World Heritage *Operational Guidelines.* Completed nominations, if approved by the Department for submission, may be submitted to the UNESCO World Heritage Centre by February 1 of any year.

Public Availability of Comments

All comments will be a matter of public record. Before including an address, phone number, email address, or other personal identifying information in a comment, members of the public should be aware that the entire comment—including personal identifying information—may be made public at any time. While commenters can request that personal identifying information be withheld from public review, it may not be possible to comply with this request.

Authority: 54 U.S.C. 307101; 36 CFR part 73.

George Wallace,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2021–00310 Filed 1–8–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#-31331; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before December 25, 2020, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by January 26, 2021.

ADDRESSES: Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line ''Public Comment on property or proposed district name, (County) State.'' If you have no access to email you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before December 25, 2020. Pursuant to Section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State or Tribal Historic Preservation Officers:

CALIFORNIA

Orange County

Johnson, Hugh Edgar, House, 444 W. Brookdale Pl., Fullerton, SG100006089

FLORIDA

Monroe County

Matecumbe Methodist Church Cemetery, 81801 Overseas Hwy., Islamorada, SG100006117

Pinellas County

House at 827 Mandalay Avenue, 827 Mandalay Ave., Clearwater, SG100006118

Sumter County

Wild Cow Prairie Cemetery, 5822 Cty. Rd. 673, Bushnell vicinity, SG100006119

Volusia County

Wright, James W., Building, 258 West Voorhis Ave., DeLand, SG100006120

Walton County

Herman Lodge No. 108 Free & Accepted Masons of Florida, 314 Madison St., Freeport, SG100006121

ILLINOIS

Cook County

Irving, James B., House, 2771 Crawford Ave., Evanston, SG100006102

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7910–00–685–6660—Pad, Machine, Scrubbing, Floor, 17″ x ¼″
7910–00–685–6671—Pad, Machine, Polishing, Floor, 15″ x ¼″
7910–00–685–6672—Pad, Machine, Polishing, Floor, 17″ x ¼″
7910–00–685–6686—Pad, Machine, Polishing, Floor, 12″ x ¼″
7910–00–685–6687—Pad, Machine, Polishing, Floor, 13″ x ¼″
7910–00–820–7989—Pad, Floor, Buffing, Nylon, Tan, 15″
7910–00–NIB–0006—Pad, Floor, Burnishing, Animal Hair, Gray, 17″
7910–00–NIB–0009—Pad, Floor, Burnishing, Animal Hair, Gray, 21″
7910–00–NIB–0016—Pad, Floor, Polishing, Animal Hair, Beige, 17″
7910–00–NIB–0029—Pad, Floor, Buffing, Polyester, Red, 14″
7910–00–NIB–0030—Pad, Floor, Buffing, Polyester, Red, 15″
7910–00–NIB–0034—Pad, Floor, Scrubbing, Polyester, Blue, 14″
7910–00–NIB–0040—Pad, Floor, Scrubbing, Polyester, Blue, 21″
7910–01–512–5933—Pad, Floor, Stripping, Polyester, Brown, 17″
7910–01–512–5937—Pad, Floor, Scrubbing, Polyester, Blue, 13″
7910–01–512–5950—Pad, Floor, Scrubbing, Polyester, Blue, 17″

Designated Source of Supply: Beacon Lighthouse, Inc., Wichita Falls, TX
Contracting Activity: GSA/FSS Greater Southwest ACQUISITI, Fort Worth, TX

Michael R. Jurkowski,

Deputy Director, Business & PL Operations.

[FR Doc. 2021–00151 Filed 1–7–21; 8:45 am]

BILLING CODE 6353–01–P

COUNCIL ON ENVIRONMENTAL QUALITY

Guidance Document Online Portal

AGENCY: Council on Environmental Quality.

ACTION: Notice of online portal for agency guidance documents.

SUMMARY: In accordance with Executive Order (E.O.) 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' dated October 9, 2019, and Office of Management and Budget (OMB) Memorandum M–20–02, dated October 31, 2019, the Council on Environmental Quality (CEQ) is providing notice of where the public may access CEQ guidance documents.

ADDRESSES: The portal may be found at *https://www.whitehouse.gov/ceq/resources/*.

FOR FURTHER INFORMATION CONTACT: Amy B. Coyle, Deputy General Counsel, Council on Environmental Quality, 730 Jackson Place NW, Washington, DC 20503, 202–395–5750, *amy.b.coyle@ceq.eop.gov*.

SUPPLEMENTARY INFORMATION: E.O. 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' [1] requires that each agency establish or maintain on its website a single, searchable, indexed database that contains or links to all agency guidance documents [2] in effect. In accordance with E.O. 13891 and OMB's implementing guidance, set forth in OMB Memorandum M–20–02,[3] CEQ has complied with this requirement through its website portal, which is available to the public at *whitehouse.gov/ceq/resources*.[4] As required by E.O. 13891, the website also reiterates that: (1) The contents of the guidance documents accessed through the portal lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract; and (2) these documents are intended only to provide clarity to the public regarding existing requirements under statutes and regulations administered by CEQ. Under the E.O., CEQ may not cite, use, or rely on any guidance document that is not posted on or linked to the website portal, except to establish historical facts.

CEQ will also include on its website portal a link to its final rule establishing CEQ's internal agency procedures for issuing guidance documents, required by section 4 of E.O. 13891. The final rule relating to CEQ's guidance document procedures is published elsewhere in this issue of the **Federal Register**.

Authority: 42 U.S.C. 4321–4347; 42 U.S.C. 4371–4375; and E.O. 13891, 84 FR 55235.

Mary B. Neumayr,

Chairman.

[FR Doc. 2020–28879 Filed 1–7–21; 8:45 am]

BILLING CODE 3125–F1–P

[1] 84 FR 55235 (Oct. 15, 2019).

[2] E.O. 13891 defines ''guidance document'' as ''an agency statement of general applicability, intended to have future effect on the behavior of regulated parties, that sets forth a policy on a statutory, regulatory, or technical issue, or an interpretation of a statute or regulation. . . .'' *Id.*

[3] OMB issued its guidance memorandum on October 31, 2019. *See* M–20–02, Guidance Implementing Executive Order 13891, Titled ''Promoting the Rule of Law Through Improved Agency Guidance Documents'' (Oct. 31, 2019), *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*.

[4] CEQ's website portal at *https://www.whitehouse.gov/ceq/resources/* includes links to CEQ guidance documents and resources, some of which are provided on nepa.gov (*https://www.energy.gov/nepa/ceq-guidance-documents*) and sustainability.gov (*https://www.sustainability.gov/resources.html*).

DEPARTMENT OF EDUCATION

[Docket No. ED–2020–SCC–0167]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before February 8, 2021.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Find this information collection request by selecting ''Department of Education'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox. Comments may also be sent to *ICDocketmgr@ed.gov*.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, (202) 377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note

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PART 220—[REMOVED]

■ Accordingly, for the reasons stated in the preamble and under the authority of 5 U.S.C. 301, the Corps removes 33 CFR part 220.

R.D. James,

Assistant Secretary of the Army (Civil Works).

[FR Doc. 2020–27908 Filed 1–7–21; 8:45 am]

BILLING CODE 3720–58–P

COUNCIL ON ENVIRONMENTAL QUALITY

40 CFR Part 1519

RIN 0331–AA04

Guidance Document Procedures

AGENCY: Council on Environmental Quality.

ACTION: Final rule.

SUMMARY: Pursuant to Executive Order (E.O.) 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' this final rule establishes the process that the Council on Environmental Quality (CEQ) will follow for issuing guidance documents. E.O. 13891 requires Federal agencies to finalize regulations or amend existing regulations to establish processes and procedures for issuing guidance documents.

DATES: This rule is effective January 8, 2021.

FOR FURTHER INFORMATION CONTACT: Amy B. Coyle, Deputy General Counsel, Council on Environmental Quality, 730 Jackson Place NW, Washington, DC 20503, (202) 395–5750, *amy.b.coyle@ceq.eop.gov*.

SUPPLEMENTARY INFORMATION:

On October 9, 2019, President Trump issued E.O. 13891,[1] which addresses the development, use, and public availability of agency guidance documents. It requires agencies to promulgate or update existing regulations setting forth their procedures for issuing guidance documents. In accordance with section 6 of E.O. 13891, on October 31, 2019, the Office of Management and Budget (OMB) issued memorandum M–20–02, ''Guidance Implementing Executive Order 13891, Titled 'Promoting the Rule of Law Through Improved Agency Guidance Documents' '' (OMB M–20–02)[2] to provide guidance and implement the Executive order. OMB M–20–02 provides agencies with additional instruction on how to implement E.O. 13891, including the required rulemaking.

I. Summary of Final Rule

In this final rule, CEQ adds a new part 1519 to the Code of Federal Regulations to set out its procedures for the development and issuance of guidance documents consistent with the direction and reflecting the policies described in E.O. 13891 and OMB M–20–02.

A. Section 1519.1, ''Purpose''

Section 1519.1, ''Purpose,'' states that the purpose of part 1519 is to implement E.O. 13891, and explains CEQ's process for developing and issuing guidance.

B. Section 1519.2, ''Guidance Document Procedures''

Section 1519.2, ''Guidance document procedures,'' defines ''guidance documents'' in paragraph (a) and describes documents that do not meet that definition in paragraph (b), consistent with section 2(b)[3] of the E.O. and Q2 of OMB M–20–02.

Paragraph (c) of § 1519.2 lists the minimum requirements for any document meeting the definition of a guidance document consistent with Q22 of OMB M–20–02, including a title, unique identification number, date, indication of whether it revises or replaces prior guidance, summaries, and legal citations. Additionally, consistent with section 4(i) of E.O. 13891, paragraph (c)(6) includes a requirement that each guidance document clearly state that it does not bind the public, except as authorized by law or as incorporated into a contract.

Paragraph (c)(11) of § 1519.2 specifies that any guidance document must be posted on CEQ's website. E.O. 13891 also directed Federal agencies to make guidance documents publicly available in an indexed, searchable database online. As described in the **Federal Register** notice published today, CEQ has complied with this requirement through its website *whitehouse.gov/ceq/resources*.[4] As noted on this website, CEQ may not cite, use, or rely on any guidance that is not posted on its web pages except to establish historical facts. CEQ also makes clear that CEQ's guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract.

Finally, paragraph (d) of § 1519.2 requires the CEQ Office of the General Counsel to review and clear all guidance documents before CEQ issues them.

C. Section 1519.3, ''Procedures for the Public To Request Withdrawal or Modification of a Guidance Document''

Consistent with section 4(ii) of E.O. 13891, § 1519.3, ''Procedures for the public to request withdrawal or modification of a guidance document,'' addresses the process for members of the public to petition CEQ to withdraw or modify a particular guidance document, including designation of the Office of the General Counsel as the office within CEQ to which the public should direct such petitions. CEQ intends to provide additional instructions on its guidance website, including appropriate contact information and format of the petitions.

D. Section 1519.4, ''Significant Guidance Documents''

Finally, § 1519.4, ''Significant guidance documents,'' addresses specific requirements for a subset of ''guidance documents'' that are ''significant guidance documents'' as defined by section 2(c) of E.O. 13891. Paragraph (a) sets forth that definition. OMB's Office of Information and Regulatory Affairs (OIRA) makes the final determination of whether a guidance document is significant. If OIRA makes such a determination for a particular guidance document, this section will also apply. Consistent with section 4(iii) of E.O. 13891, paragraph (b) sets forth procedural requirements, including public notice and comment for at least 30 days, unless an exception applies; public response to major concerns raised in comments; approval on a non-delegable basis by the Chairman, or an official acting as Chairman; review by OIRA under Executive Order 12866; and compliance with the applicable requirements for regulations or rules.

II. Rulemaking Analyses and Notices

A. Regulatory Procedures

Under the Administrative Procedure Act, an agency may waive notice and comment procedures if an action is an interpretative rule, a general statement of policy, or a rule of agency organization, procedure, or practice. *See* 5 U.S.C. 553(b)(A). This rule describes the internal process that CEQ will follow to comply with the requirements specified in E.O. 13891 when issuing guidance documents as defined by the

[1] 84 FR 55235 (Oct. 15, 2019).

[2] OMB M–20–02 is available at *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*.

[3] E.O. 13891 section 2(b) lists the following as exclusions to the definition of guidance document. 84 FR at 55235–36.

[4] CEQ's website, *whitehouse.gov/ceq/resources*, includes links to CEQ guidance documents and resources, some of which are provided on *nepa.gov* and *sustainability.gov*.

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E.O. Because this rule is one of agency organization, procedure, or practice, it is exempt from the requirement to provide prior notice and opportunity for public comment.

B. Regulatory Planning and Review (E.O. 12866 and E.O. 13563)

E.O. 12866 provides that OIRA will review all significant rules. E.O. 13563 reaffirms the principles of E.O. 12866, calling for improvements in the Federal government's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory objectives. OMB determined that this final rule does not meet the requirements for a significant regulatory action under E.O. 12866, as supplemented by E.O. 13563, and therefore it was not subject to review.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, as amended (RFA), 5 U.S.C. 601 *et seq.,* and E.O. 13272 do not apply to this rulemaking because it is not subject to the notice and comment requirements of 5 U.S.C. 553(b).

D. Unfunded Mandates Reform Act

A statement containing the information required by the Unfunded Mandates Reform Act, 2 U.S.C. 1531 *et seq.,* is not required. This rule will not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year, and it will not have a significant or unique effect on State, local, or Tribal governments, or the private sector.

E. Reducing Regulation and Controlling Regulatory Costs (E.O. 13771)

This rule is not an E.O. 13771 regulatory action because this rule is not significant under E.O. 12866.

F. Federalism (E.O. 13132)

Under the criteria in section 1 of E.O. 13132, this rule will not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement because it will not substantially and directly affect the relationship between the Federal and State governments.

G. National Environmental Policy Act

The purpose of this rulemaking is to formalize the CEQ's administrative procedures for issuing guidance documents, as required by E.O. 13891. CEQ has determined that the final rule is a non-major Federal action under the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.,* and would not have any effect on the environment because it merely outlines internal CEQ administrative procedures and does not authorize any activity or commit resources to a project that may affect the environment.

H. Paperwork Reduction Act

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This rule will not impose recordkeeping or reporting requirements on State, local, or Tribal governments, individuals, businesses, or organizations.

List of Subjects in 40 CFR Part 1519

Administrative practice and procedure, Guidance.

Mary B. Neumayr,
Chairman.

■ For the reasons stated in the preamble, the Council on Environmental Quality adds 40 CFR part 1519 as follows:

PART 1519—GUIDANCE DOCUMENTS

Sec.
1519.1 Purpose.
1519.2 Guidance document procedures.
1519.3 Procedures for the public to request withdrawal or modification of a guidance document.
1519.4 Significant guidance documents.

Authority: 42 U.S.C. 4321–4347; 42 U.S.C. 4371–4375; and E.O. 13891, 84 FR 55235.

§ 1519.1 Purpose.

(a) This part implements Executive Order 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' and reflects the policies described in that order. The provisions in this part address the Council on Environmental Quality's procedures for the development and issuance of agency guidance documents. This part explains what constitutes guidance documents, and sets forth the minimum requirements for guidance documents, the procedures to request withdrawal or modification of guidance documents, and the additional requirements and procedures for significant guidance documents.

(b) This part is intended to improve the internal management of the Council on Environmental Quality. It is not intended to and does not create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its agencies or other entities, its officers or employees, or any other person.

(c) If Executive Order 13891 or any provision thereof is rescinded or superseded, this part remains in effect.

§ 1519.2 Guidance document procedures.

(a) *Definition of guidance documents.* For purposes of this part, guidance documents are agency statements of general applicability, intended to have future effect on the behavior of regulated parties, that set forth a policy on a statutory, regulatory, or technical issue, or an interpretation of a statute or regulation.

(b) *Documents excluded from the definition of guidance documents.* Guidance documents do not include:

(1) Agency statements of specific, rather than general, applicability.

(2) Agency statements that do not set forth a policy on a statutory, regulatory, or technical issue or an interpretation of a statute or regulation.

(3) Legislative rules promulgated under 5 U.S.C. 553 (or similar statutory provisions), or exempt from rulemaking requirements under 5 U.S.C. 553(a).

(4) Rules of agency organization, procedure, or practice that are not anticipated to have substantial future effect on the behavior of regulated parties or the public.

(5) Decisions of agency adjudication.

(6) Documents or agency statements that are directed solely to the Council on Environmental Quality or other agencies (or personnel of such agencies) that are not anticipated to have substantial future effect on the behavior of regulated parties or the public.

(7) Legal briefs and other court filings.

(8) Legal advice or opinions from the Council on Environmental Quality's Office of the General Counsel.

(9) Categories of guidance documents made exempt from Executive Order 13891 by the Administrator of the Office of Management and Budget's Office of Information and Regulatory Affairs through memoranda issued pursuant to section 4(b) of Executive Order 13891.

(c) *Elements of guidance documents.* In general, each guidance document must:

(1) Provide the title of the guidance document;

(2) Provide a unique document identification number;

(3) Identify the Council on Environmental Quality and any office, as appropriate, issuing the guidance document;

(4) Include the date of issuance;

(5) Include the term ''guidance'';

(6) Include a disclaimer clarifying that it does not have the force and effect of law; is not meant to bind the public in any way; and is intended only to provide clarity to the public regarding

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existing requirements under the law or agency policies. When a guidance document is binding because the law authorizes binding guidance or because a contract incorporates the guidance, the Council on Environmental Quality must modify the disclaimer to reflect accordingly;

(7) If it is a revision to or a replacement of a previously issued guidance document, identify the guidance document that it revises or replaces;

(8) Include a short summary of the subject matter covered in the guidance document at the top of the document;

(9) Identify the activities to which and the persons to whom the guidance document applies;

(10) Include the citation to the statutory provision or regulation to which the guidance document applies or which it interprets; and

(11) Be posted on the Council on Environmental Quality's website.

(d) *Review and clearance.* The Office of the General Counsel must review and clear all proposed guidance documents before issuance.

§ 1519.3 Procedures for the public to request withdrawal or modification of a guidance document.

(a) Any member of the public may petition the Council on Environmental Quality to withdraw or modify a guidance document.

(b) The petitioner must submit the request for the withdrawal or modification of a guidance document in writing to the Office of the General Counsel. The petition must contain a statement of the reasons for the petition and any supporting documents to support the petitioner's request.

(c) Upon receipt of a petition for withdrawal or modification of a guidance document, the Office of the General Counsel will consult with the relevant offices and coordinate the response to the petition.

(d) The Council on Environmental Quality should respond to a petition in writing, including electronically, within 90 days of receipt of a petition. The response should state whether the petition is granted, granted in part and denied in part, denied, or provisionally denied for lack of adequate information. If the petition is provisionally denied for lack of adequate information, the response should indicate what additional information is necessary to adjudicate the petition. The Office of the General Counsel should respond to the petition in writing no later than 90 days after receipt of the necessary additional information. The response should state whether the petition is granted, granted in part and denied in part, or denied.

(e) The Council on Environmental Quality may consider in a coordinated manner or provide a coordinated response to similar petitions for withdrawal or modification.

(f) The Council on Environmental Quality need not respond to petitions under this part for withdrawal or modification of documents that do not meet the definition of a guidance document.

§ 1519.4 Significant guidance documents.

(a) *Significant guidance documents definition.* For the purposes of this section, significant guidance documents are guidance documents that may be reasonably anticipated to:

(1) Lead to an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles of Executive Order 12866.

(b) *Actions the Council on Environmental Quality will take before issuing significant guidance documents.* When the Office of Management and Budget's Office of Information and Regulatory Affairs determines that a guidance document is a significant guidance document, the Council on Environmental Quality must:

(1) Submit the guidance document for review by the Office of Information and Regulatory Affairs under Executive Order 12866;

(2) Publish the draft significant guidance document in the **Federal Register** for a public notice and comment period of at least 30 days;

(i) This provision will not apply if the Council on Environmental Quality for good cause finds that notice and public comment is impracticable, unnecessary, or contrary to the public interest.

(ii) If such a finding is made, the Council on Environmental Quality must incorporate such a finding and a brief statement of its reasoning into the significant guidance document.

(3) Obtain approval on a non-delegable basis from the Chairman or an official who is serving in an acting capacity as the Chairman.

(4) Provide a public response to major concerns raised in comments on the draft significant guidance document.

(5) Announce the availability of the final significant guidance document.

(6) Comply with the applicable requirements for regulations or rules, including significant regulatory actions, set forth in Executive Orders 12866, ''Regulatory Planning and Review,'' 13563, ''Improving Regulation and Regulatory Review,'' 13609, ''Promoting International Regulatory Cooperation,'' 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' and 13777, ''Enforcing the Regulatory Reform Agenda.''

(c) *Exemption.* This section will not apply if the Chairman or an official who is serving in an acting capacity as the Chairman of the Council on Environmental Quality and the Administrator of the Office of Information and Regulatory Affairs agree that exigency, safety, health, or other compelling cause warrants an exemption from some or all requirements.

[FR Doc. 2020–28881 Filed 1–7–21; 8:45 am]

BILLING CODE 3225–F1–P

FEDERAL PERMITTING IMPROVEMENT STEERING COUNCIL

40 CFR Chapter IX

[Agency Docket Number 2020–001]

RIN 3121–AA01

Adding Mining as a Sector of Projects Eligible for Coverage Under Title 41 of the Fixing America's Surface Transportation Act

AGENCY: Federal Permitting Improvement Steering Council.

ACTION: Final rule.

SUMMARY: The Federal Permitting Improvement Steering Council (Permitting Council) has voted to add mining as a sector with infrastructure projects eligible for coverage under Title 41 of the Fixing America's Surface Transportation Act (FAST–41). A new part will be included in the Code of Federal Regulations that adds mining to the list of statutory FAST–41 sectors. The addition of mining as a FAST–41 sector will allow qualified mining infrastructure projects to become FAST–41 covered projects. FAST–41 coverage will help Federal agencies coordinate their environmental and project review efforts to improve the timeliness, efficiency, predictability, and transparency of the decision-making processes associated with covered

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Rules and Regulations

Federal Register
Vol. 86, No. 3
Wednesday, January 6, 2021

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 760

[Docket ID: FSA–2020–0011]

RIN 0560–AI55

Agricultural Disaster Indemnity Programs

AGENCY: Farm Service Agency (FSA), Department of Agriculture (USDA).

ACTION: Final rule.

SUMMARY: This rule establishes the Quality Loss Adjustment (QLA) Program to provide assistance to producers who suffered eligible crop quality losses due to hurricanes, excessive moisture, floods, drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. It also amends the provisions for the Wildfire and Hurricane Indemnity Program Plus (WHIP+) to be consistent with the Further Consolidated Appropriations Act, 2020, by adding excessive moisture and drought occurring in 2018 and 2019 as qualifying disaster events and clarifying eligibility of sugar beets. The changes to WHIP+ were self-enacting and were previously implemented by FSA.

DATES:

Effective date: January 6, 2021.

Comment due date: Comments are due by March 8, 2021.

ADDRESSES: We invite you to submit comments on this rule. You may submit comments by either of the following methods, although FSA prefers that you submit comments electronically through the Federal eRulemaking Portal:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and search for Docket ID FSA–2020–0011. Follow the instructions for submitting comments.
- *Mail:* Director, SND, FSA, U.S. Department of Agriculture, 1400 Independence Avenue SW, Stop 0522, Washington, DC 20250–0522. In your comment, specify the docket ID FSA–2020–0011.

Comments will be available for viewing online at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Kimberly Graham at (202) 720–6825 (voice); or by email at: *kimberly.graham@usda.gov*. Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice).

SUPPLEMENTARY INFORMATION:

Background

The Additional Supplemental Appropriations for Disaster Relief Act, 2019 (''Disaster Relief Act,'' Pub. L. 116–20) provided disaster assistance for necessary expenses related to losses of crops (including milk, on-farm stored commodities, crops prevented from planting in 2019, and harvested adulterated wine grapes), trees, bushes, and vines, as a consequence of hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. The Further Consolidated Appropriations Act, 2020 (Pub. L. 116–94), makes several changes to the provisions of the Disaster Relief Act, including:

- Specifying that assistance would be provided for crop quality losses;
- Adding excessive moisture as a qualifying disaster event;
- Adding drought as a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year; and
- Providing that sugar beet losses in 2018 and 2019 would be paid through cooperative processors (to be paid to producer members as determined by such processors).

This rule implements those provisions of the Further Consolidated Appropriations Act, 2020, by establishing the QLA Program to provide assistance for crop quality losses and amending the WHIP+ regulations to be consistent with the changes to qualifying disaster events and eligibility of sugar beet losses.

QLA Program

This rule establishes the QLA Program to provide disaster assistance for crop quality losses that were a consequence of hurricanes, excessive moisture, floods, qualifying drought, tornadoes, typhoons, volcanic activity, snowstorms, or wildfires occurring in calendar years 2018 and 2019. Eligible crops generally include crops for which FCIC crop insurance coverage or Noninsured Crop Disaster Assistance Program (NAP) coverage is available; however, value loss crops,[1] honey, and maple sap are not eligible. The QLA Program provides assistance for losses to crops that were sold or fed to livestock or are in storage; crops that were destroyed are not eligible. Assistance will be based on a producer's harvested affected production of an eligible crop that had a quality loss due to a qualifying disaster event and had at least a 5 percent quality loss due to all eligible disaster events.

Qualifying disaster events include hurricanes, floods, tornados, typhoons, volcanic activity, snowstorms, wildfires, excessive moisture, qualifying drought, and related conditions that occurred in the 2018 or 2019 calendar year. Assistance is available for eligible producers in counties that received a qualifying Presidential Emergency Disaster Declaration (declaration) or Secretarial Disaster Designation (designation) due to one or more of the qualifying disaster events or a related condition. As required by the Further Consolidated Appropriations Act, 2020, drought is only a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year (referred to as ''qualifying drought'' in this rule). Only producers in those counties that received a disaster declaration or designation qualify for the QLA Program based on the declaration or designation. Producers in counties that did not receive a qualifying declaration or designation may still apply; however, they must also provide supporting documentation to establish that the crop was directly affected by a qualifying disaster event and suffered the same

[1] Value loss crops include aquaculture, floriculture, mushrooms, ginseng root, ornamental nursery, sea grass and sea oats, Christmas trees, and turfgrass sod.

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minimum loss as required by a crop in a disaster declared or designated county. Lists of counties with Presidential Emergency Disaster Declarations and Secretarial Disaster Designations for all qualifying disaster events for 2018 and 2019 are available at *farmers.gov/quality-loss.*

FSA recognizes that a crop may suffer quality losses due to multiple disaster events in a single crop year, and the portion of a crop's quality loss that can be attributed to a specific disaster event may be difficult to determine. Therefore, while a qualifying disaster event must have caused at least a portion of the affected production's quality loss, FSA will consider the total quality loss caused by all eligible disaster events for eligibility and payment calculation purposes. Eligible disaster events for the QLA Program include those listed for NAP in 7 CFR 1437.10, except that the QLA Program does not cover losses due to insect infestation.

The QLA Program does not cover losses due to disaster events occurring after a crop was harvested or due to crop deterioration while in storage. Quality losses that could have been mitigated using good farming practices are not eligible. For example, if a producer's corn crop received a quality discount due to high moisture content, the producer could have mitigated that quality loss by using best practices for drying and storing the crop; therefore, that producer's quality loss due to high moisture is not eligible. The QLA Program does not provide assistance for losses that cannot be determined to have occurred or for losses for which a notice of loss was previously disapproved by FSA, RMA, or an approved insurance provider selling and servicing Federal crop insurance policies unless that notice of loss was disapproved solely because it was filed after the applicable deadline.

The QLA Program does not provide assistance for certain quality losses that were already compensated under a Federal crop insurance plan, NAP, or WHIP+. This includes losses to affected production of:

- Multiple market crops already compensated under crop insurance or WHIP+;
- Crops for which production used to calculate a crop insurance indemnity or WHIP+ payment was adjusted based on a comparison of the producer's sale price to the FCIC established price;
- Crops that received a crop insurance indemnity, NAP payment, or WHIP+ payment based on the quantity of production that was considered unmarketable; and
- Crops for which production was reported as salvage value or secondary use.

The QLA Program also excludes quality losses to sugar beets that were compensated through cooperative agreements with cooperative processors.

Affected production of a subsequent crop grown on double cropped acreage is only eligible if the crop has been approved as an eligible double cropping practice by the FSA State committee.

Application

FSA will accept QLA Program applications from January 6, 2021, through March 5, 2021. To apply, producers must submit a completed QLA Program application either in person, by mail, email, or facsimile to an FSA county office. To be eligible, a producer must submit a complete application, which includes all of the following:

- FSA–898, Quality Loss Adjustment (QLA) Program Application;
- FSA–899, Historical Nutritional Value Weighted Average Worksheet (only for forage crops with verifiable documentation of historical nutrient factors from the 3 preceding crop years);
- FSA–578, Report of Acreage;
- FSA–895, Crop Insurance and/or NAP Coverage Agreement; and
- Required documentation, as discussed below.

The FSA–578, FSA–895, and FSA–899 forms, and other required documentation must be submitted to the producer's county office by March 19, 2021.

If not already on file with FSA, producers must also submit the following eligibility forms for each crop year within 60 days of the date the producer signs the application:

- AD–1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification;
- CCC–902, Farm Operating Plan for Payment Eligibility;
- CCC–941 Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information; and
- CCC–942 Certification of Income from Farming, Ranching and Forestry Operations, if applicable.

Payments will not be made until all necessary eligibility documentation is received. Failure of an applicant to submit documentation timely may result in FSA not issuing a payment or, in the case of legal entities, a reduced payment if the required documentation for one or more members of the entity is not submitted timely.

Required Documentation

To support their applications, producers must submit documentation showing the quality loss and quantity of affected production by March 19, 2021. Documentation of the quality loss (total dollar value loss, grading factors, and nutrient factors, as applicable), must be verifiable. Verifiable documentation is documentation that can be verified by FSA through an independent source; FSA may verify the submitted records with records on file at the warehouse, gin, laboratory, or other entity that received or tested the reported production. Examples of acceptable, verifiable documentation include warehouse grading sheets, settlement sheets, sales receipts, and laboratory test results. Except for grain crops that have been sold, the documentation must be from laboratory tests or analysis completed within 30 days of harvest to be considered acceptable, unless the FSA county committee determines that the record is representative of the condition of the affected production within 30 days of harvest. For grain crops that were sold, the verifiable documentation can be from any time from harvest through the time of sale, unless the FSA county committee determines the record is not representative of the condition within 30 days of harvest. Producers who do not have acceptable, verifiable documentation are ineligible for the QLA Program.

For forage crops, all producers must submit verifiable documentation showing the nutrient factors for the affected production of the crop. Producers must also submit verifiable documentation of the historical nutrient factors for the 3 preceding crop years if available. The type of nutrient factors (such as relative feed value or total digestible nutrients) that must be documented for a particular crop will be determined by the FSA county committee based on the standard practice for the crop in that county. For all crops other than forage crops, producers must submit verifiable documentation of the total dollar value loss due to quality, if available, and verifiable documentation of grading factors due to quality.

Documentation to support the quantity of affected production included on the application must be verifiable for non-forage crops that receive a QLA payment based on the producer's total dollar value loss. For all other crops (non-forage crops without a producer's total dollar value loss and all forage crops), records to support the quantity of affected production must be reliable. Reliable production records means evidence provided by the participant that is used to substantiate the amount of production reported when verifiable

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records are not available, including copies of receipts, ledgers of income, income statements of deposit slips, register tapes, invoices for custom harvesting, and records to verify production costs, contemporaneous measurements, truck scale tickets, and contemporaneous diaries that are determined acceptable by the FSA county committee. To determine whether the records are acceptable, the FSA county committee will consider whether they are consistent with the records of other producers of the crop in that area.

Payment Calculation

QLA Program payments will be calculated using different formulas based on the type of crop (forage or non-forage) and based on the type of documentation submitted. All QLA payments, regardless of whether they are forage or non-forage, and the type of documentation submitted, will be calculated using a 70 percent payment factor. Payments calculated based on a county average loss, as described below, will be subject to an additional payment factor of 50 percent.

For forage crops with verifiable documentation of both the nutrient factors for the affected production and historical nutrient factors for the 3 preceding crop years, payment will be equal to the amount of the producer's total affected production multiplied by the producer's verifiable percentage of loss, multiplied by the average market price determined by FSA, multiplied by 70 percent. The producer's verifiable percentage of loss is determined by comparing the nutrient factor test results for the affected production to the average from the 3 preceding crop years, as documented on the FSA–899, Historical Nutritional Value Weighted Average Worksheet. The average market price for the QLA Program is the price used for NAP established according to 7 CFR 1437.12.

For forage crops with verifiable documentation of nutrient factors for the affected production but without historical nutrient factors for the 3 preceding crop years, the payment will be equal to the amount of the producer's total affected production multiplied by the county average percentage of loss, multiplied by the average market price determined by FSA, multiplied by 70 percent, multiplied by 50 percent.

For affected production of non-forage crops with verifiable documentation of the total dollar value loss due to quality, the QLA Program payment is equal to the producer's total dollar value loss on the affected production of the crop, multiplied by a payment factor of 70 percent.

For non-forage crops without verifiable documentation of a total dollar value loss but with verifiable documentation of grading factors due to quality, the payment will be equal to the amount of producer's affected production multiplied by the county average loss per unit of measure, multiplied by 70 percent, multiplied by 50 percent.

To determine the county average percentage of loss (for forage crops) or the county average loss per unit of measure (for non-forage crops), FSA will calculate the average loss for a crop based on losses of producers applying with verifiable documentation of historical nutritional factors (for forage crops) or the total dollar value loss (for non-forage crops) if at least 5 eligible producers submitted that documentation in the county. If less than 5 eligible producers in a county submit verifiable documentation of their historical nutritional factors or their total dollar value loss, FSA will determine a county average percentage of loss or county average loss per unit of measure based on the best available data, including losses of other QLA Program participants in contiguous counties. If sufficient data is still not available after considering other sources, FSA may determine that a county average cannot be calculated and producers in that county applying for payment under the applicable calculation are ineligible.

Payments for the QLA Program will not be issued until the application period has ended in order to allow FSA to determine the county average losses, as well as the total payments requested under the QLA Program. The Further Consolidated Appropriations Act, 2020 provides funding for the QLA Program to be available until December 31, 2021, in an amount equal to the remaining funds provided under the Bipartisan Budget Act of 2018 (Pub. L. 115–123) for losses due to Hurricanes Harvey, Irma, Maria, and other hurricanes and wildfires occurring in calendar year 2017,[2] and remaining funds provided under the Disaster Relief Act for losses due to Hurricanes Michael and Florence, other hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.[3] If the total amount of calculated QLA Program payments exceeds the amount of funding available, FSA will prorate all payments by a national factor.

A person or legal entity, other than a joint venture or general partnership, is eligible to receive, directly or indirectly, up to $125,000 per crop year in QLA Program payments. FSA will use the notification of interest provisions in 7 CFR 1400.107 and payment attribution provisions in 7 CFR 1400.105 for attributing and limiting payments to persons and legal entities. FSA will also use provisions in 7 CFR 1400.104 when changes in a farming operation result in an increase in persons to which payment limitation applies. Payments made to a joint operation (including a general partnership or joint venture) cannot exceed $250,000 per person or legal entity that comprise the ownership of the joint operation. Payments made to a legal entity will be reduced proportionately by an amount that represents the direct or indirect ownership in the legal entity by any person or legal entity that has otherwise reached the maximum payment limitation. These rules for attributing and limiting payments are consistent with the programs FSA administers on behalf of the Commodity Credit Corporation.

A person or legal entity, other than a joint venture or general partnership, is ineligible for a 2018, 2019, or 2020 payment if the person's or legal entity's average adjusted gross income (AGI) is more than $900,000, unless at least 75 percent of that person's or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. The average AGI for each of the program years 2018, 2019, or 2020, is determined using the average of the adjusted gross incomes for the 3 taxable years preceding the most immediately preceding taxable year. For example, for the 2019 program year, the producer's AGI would be based on the 2015, 2016, and 2017 tax years. If at least 75 percent of the person's or legal entity's AGI is derived from farming, ranching, or forestry-related activities and the participant provides the required certification and documentation, the person or legal entity is eligible to

[2] FSA provided assistance for losses due to Hurricanes Harvey, Irma, Maria, and other hurricanes and wildfires occurring in calendar year 2017 through the 2017 Wildfires and Hurricanes Indemnity Program (2017 WHIP) (final rule published July 18, 2018, 83 FR 33795–33809) and the Florida Citrus Recovery Grant Program.

[3] FSA has previously provided assistance for losses due to Hurricanes Michael and Florence, other hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019 through the Wildfires and Hurricanes Indemnity Program Plus (WHIP+), On-Farm Storage Loss Program, and Milk Loss Program (final rule published September 13, 2019, 84 FR 48518–48537), as well as through several grants and cooperative agreements with sugar beet cooperatives.

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receive QLA Program payments up to the applicable payment limitation noted above. With respect to joint ventures and general partnerships, this AGI provision will be applied to each member of the joint venture and general partnership.

Requirement to Purchase Crop Insurance or NAP Coverage

The Disaster Relief Act requires all participants who receive QLA Program payments to purchase crop insurance or NAP coverage for the next 2 available crop years. The latest year for meeting compliance with this provision will be the 2023 crop year. In other words, if the 2 consecutive years of coverage are not met by 2023 coverage year, the participant is ineligible for and must refund QLP Program payments. Participants must obtain crop insurance or NAP, as may be applicable, at the 60 percent coverage level or higher. In situations where crop insurance is unavailable for a crop, the Disaster Relief Act requires that a QLA Program participant obtain NAP coverage. Section 1001D of the Food Security Act of 1985 (1985 Farm Bill) provides that a person or entity with AGI in amount greater than $900,000 is not eligible to participate in NAP; however, producers with an AGI greater than $900,000 may be eligible for the QLA Program if at least 75 percent of that person's or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. Accordingly, in order to reconcile this restriction in the 1985 Farm Bill and the Disaster Relief Act's requirement to obtain NAP or crop insurance coverage, QLA Program participants may meet the Disaster Relief Act's purchase requirement by purchasing Whole-Farm Revenue Protection crop insurance coverage, if eligible, or they may pay the applicable NAP service fee and premium for the 60 percent coverage level despite their ineligibility for a NAP payment. In other words, the service fee and premium must be paid even though no NAP payment may be made because the AGI of the person or entity exceeds the 1985 Farm Bill limitation.

The crop insurance and NAP coverage requirements are specific to the crop and county (county where the crop is physically located for insurance and administrative county for NAP) for which QLA Program payments are paid. This means that a producer is required to purchase crop insurance or NAP coverage for the crop in the county for which the producer was issued a QLA Program payment. Producers who receive a payment on a crop in a county and who have the crop or crop acreage in subsequent years, as provided in this rule, and who fail to obtain the 2 years of crop insurance or NAP coverage must refund all QLA Program payments for that crop in that county with interest from the date of disbursement. This is a condition of payment eligibility specified by Disaster Relief Act and is therefore not subject to partial payment eligibility or other types of equitable relief. Producers who were paid under the QLA Program for a crop in a county but do not plant that crop in a subsequent year are not subject to the crop insurance or NAP purchase requirement. WHIP+ participants who already met the requirement to purchase crop insurance or NAP coverage as specified in 7 CFR 760.1517 are considered to have also met the requirement to purchase crop insurance or NAP coverage for QLA Program purposes, and they are not required to obtain additional years of crop insurance or NAP coverage as a result of also receiving a QLA Program payment for that crop.

Applicable general eligibility requirements, including recordkeeping requirements and required compliance with HELC and Wetland Conservation provisions, are similar to those for the previous ad hoc crop disaster programs and current permanent disaster programs. All information provided to FSA for program eligibility and payment calculation purposes, including production records, is subject to spot check.

WHIP+

FSA, on behalf of the Secretary of Agriculture, previously implemented provisions of the Disaster Relief Act by establishing WHIP+ through a final rule published on September 19, 2019 (84 FR 48518–48537). The Disaster Relief Act provided assistance for losses of crops, trees, bushes, and vines, as a consequence of hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. WHIP+ covers only production losses of crops except in specific circumstances discussed previously in this document when the producer may have also been compensated for quality losses.

This rule amends 7 CFR 760.1500(c) and the definition of ''qualifying disaster event'' in § 760.1502 to include excessive moisture and qualifying drought. As under the QLA Program, drought is only considered a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year. This rule adds definitions of ''qualifying drought'' and ''U.S. Drought Monitor'' in § 760.1502.

The addition of these qualifying disaster events for WHIP+ was self-enacting as the text in the law clearly specified the required changes without need for interpretation; therefore, FSA began the sign-up period for losses due to excessive moisture and qualifying drought on March 23, 2020, and sign-up ended on October 30, 2020. Producers applying for WHIP+ assistance for losses due to excessive moisture or qualifying drought were required to meet all requirements in 7 CFR part 760, subpart O, including the requirement to purchase crop insurance for 2 years as specified in § 760.1517.

The Further Consolidated Appropriations Act, 2020 also directed the Secretary to pay sugar beet losses in 2018 and 2019 through cooperative processors. FSA has established cooperative agreements with sugar beet processors; those processors will be responsible for distributing assistance to their members. This rule amends the eligibility provisions in § 760.1517 to specify that members of cooperatives are not eligible for a WHIP+ payment for sugar beet losses.

FSA is also updating § 760.1510(a) to reflect the application deadline of October 30, 2020, and correcting references in §§ 760.1508(c) and (f) and 760.1511(a)(6).

Notice and Comment and Effective Date

The Administrative Procedure Act (5 U.S.C. 553) provides that the notice and comment and 30-day delay in the effective date provisions do not apply when the rule involves a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts. This rule involves programs for payments to certain agricultural commodity producers and therefore falls within that exemption. Due to the nature of the rule and the need to implement the regulations expeditiously to provide assistance to agricultural producers, FSA finds that notice and public procedure are contrary to the public interest. Therefore, even though this rule is a major rule for purposes of the Congressional Review Act, FSA is not required to delay the effective date for 60 days from the date of publication to allow for Congressional review. Therefore, this rule is effective upon publication in the **Federal Register**.

Executive Orders 12866, 13563, 13771 and 13777

Executive Order 12866, ''Regulatory Planning and Review,'' and Executive

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Order 13563, ''Improving Regulation and Regulatory Review,'' direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13777, ''Enforcing the Regulatory Reform Agenda,'' established a Federal policy to alleviate unnecessary regulatory burdens on the American people.

The Office of Management and Budget (OMB) designated this rule as economically significant under Executive Order 12866, and therefore, OMB has reviewed this rule. The costs and benefits of this rule are summarized below. The full cost benefit analysis is available on *regulations.gov.*

Executive Order 13771, titled Reducing Regulation and Controlling Regulatory Costs, was issued on January 30, 2017. The OMB guidance in M–17–21, dated April 5, 2017, specifies that ''transfers'' are not covered by Executive Order 13771 but that requirements imposed apart from transfers in transfer rules may qualify as costs or cost savings under Executive Order 13771, for example the information collection requirements in this rule. This rule is not subject to the requirements of E.O. 13771 because this rule results in no more than de minimis costs.

Cost Benefit Analysis Summary

WHIP+ initially provided approximately $3 billion in supplemental assistance to producers for qualifying agricultural production losses. In the Further Consolidated Appropriations Act, 2020, Congress changed provisions of the Disaster Relief Act as follows:

1. Extended eligibility under WHIP+ to also cover [4]—

a. Crop production losses due to excessive moisture in calendar years 2018 and 2019;

b. Crop production losses due to drought in calendar years 2018 and 2019 if the area within the county in which the loss occurred was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year;

2. Provided assistance for sugar beet losses in 2018 and 2019 to be paid through cooperative processors; [5] and

3. Authorized assistance for crop quality losses that occurred in calendar years 2018 and 2019 through the QLA Program (implemented by this rule).

Eligible crops under the QLA Program include crops for which Federal crop insurance or NAP coverage is available. To be eligible for the QLA Program, a crop must have suffered a quality loss due to a qualifying disaster event and had at least a 5 percent quality discount due to a combination of the qualifying disaster event and any other QLA-eligible causes of loss. Eligible crops may have been sold, fed on farm to livestock, or been in storage at the time of application.

USDA estimates the Further Consolidated Appropriations Act, 2020 will provide approximately $950 million for the continuation of disaster assistance program delivery, including payments to eligible producers for production losses due to excessive moisture and extreme drought under WHIP+ and for quality losses covered by the QLA Program. Of that amount, USDA anticipates that an estimated $500 million will be available for QLA Program payments. However, the amount of funding ultimately available for the QLA Program will not be known until other payments, for example for excessive moisture and drought under WHIP+, are finalized.

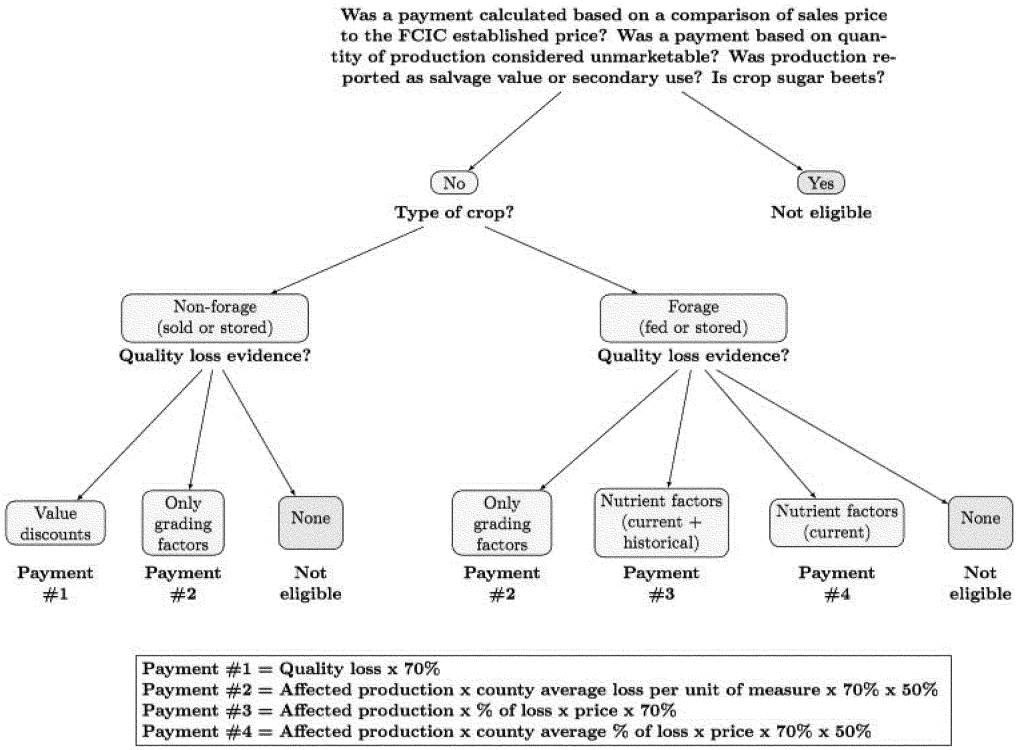
The QLA Program payment calculation depends on several factors, as shown in Figure 1. A producer is ineligible for a QLA Program payment if they received a crop insurance indemnity, NAP payment, or WHIP+ payment for a crop that was unmarketable, sold for salvage value or secondary use, or if the payment was based on a comparison of the sales price of the affected production and the applicable reference price. Otherwise, payments or benefits received under the Federal crop insurance, NAP or WHIP+ do not affect a producer's eligibility or payment received from the QLA Program. The payment calculation depends on the use of production (non-forage or forage) and evidence at hand of the crop quality loss. Producers who do not have evidence of the quality loss are ineligible.

[4] The addition of excessive moisture and certain drought conditions as qualifying causes of loss under WHIP+ is specific, not open to interpretation, and is therefore self-enacting. Accordingly, the provision was previously implemented. FSA began the sign-up period on March 23, 2020, and sign-up ended on October 30, 2020.

[5] Assistance for sugar beet losses for members of cooperative processors is provided through a separate program.

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Figure 1. Eligibility and Payment Calculation



Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA, Pub. L. 104–121), generally requires an agency to prepare a regulatory flexibility analysis of any rule whenever an agency is required by the Administrative Procedure Act or any other law to publish a proposed rule, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule is not subject to the Regulatory Flexibility Act because USDA is not required by Administrative Procedure Act or any law to publish a proposed rule for this rulemaking.

Environmental Review

The environmental impacts of this final rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and the FSA regulation for compliance with NEPA (7 CFR part 799). The legislative intent for implementing the QLA Program is to provide assistance to producers who suffered eligible crop quality losses due to hurricanes, excessive moisture, floods, drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.

While OMB has designated this rule as ''economically significant'' under Executive Order 12866, ''economic or social effects are not intended by themselves to require preparation of an environmental impact statement'' (see 40 CFR 1502.16(b)), when not interrelated to natural or physical environmental effects.

For this rule, the FSA Categorical Exclusions found in 7 CFR 799.31 apply, specifically 7 CFR 799.31(b)(6)(iii), (iv), and (vi) (that is, § 799.31(b)(6)(iii) Financial assistance to supplement income, manage the supply of agricultural commodities, or influence the cost or supply of such commodities or programs of a similar nature or intent (that is, price support programs); § 799.31(b)(6)(iv) Individual farm participation in FSA programs where no ground disturbance or change in land use occurs as a result of the proposed action or participation; and § 799.31(b)(6)(vi) Safety net programs administered by FSA). No Extraordinary Circumstances (7 CFR 799.33) exist.

For the outlined reasons, FSA has determined that the implementation of the QLA Program and the participation in the QLA Program does not constitute a major Federal action that would significantly affect the quality of the human environment, individually or cumulatively. Therefore, FSA will not prepare an environmental assessment or environmental impact statement for this regulatory action.

Executive Order 12372

Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' requires consultation with State and local officials that would be directly affect by proposed Federal financial assistance. The objectives of the Executive order are to foster an intergovernmental partnership and a strengthened federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance and direct Federal development. For reasons specified in the final rule related notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs and activities

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within this rule are excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, ''Civil Justice Reform.'' This rule will not preempt State or local laws, regulations, or policies unless they represent an irreconcilable conflict with this rule. The rule will not have retroactive effect. Before any judicial action may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR parts 11 and 780 must be exhausted.

Executive Order 13132

This rule has been reviewed under Executive Order 13132, ''Federalism.'' The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, except as required by law. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

The USDA's Office of Tribal Relations (OTR) has assessed the impact of this rule on Indian Tribes and determined that this rule may have significant Tribal implications that require ongoing adherence to Executive Order 13175. OTR notes that the programs are similar to programs that have been administered by FSA and RMA in the past; having not heard any concerns regarding the administration of these in the past, and the fact that provisions are mandated in the Disaster Relief Act, OTR recommended that consultation is not required at this time. Tribes can request consultation at any time. FSA will work with OTR to ensure meaningful consultation is provided where changes, additions, and modifications identified in this rule are not expressly mandated by law.

The Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104–4) requires Federal agencies to assess the effects of their regulatory actions on State local, and Tribal governments or the private sector. Agencies generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures of $100 million or more in any 1 year for State, local, or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates, as defined in Title II of UMRA, for State, local, and Tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, FSA submitted the QLA Program information collection request to OMB for emergency approval. OMB approved the 6-month emergency information collection.

E-Government Act Compliance

FSA is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Federal Assistance Programs

The titles and numbers of the Federal Domestic Assistance Program found in the Catalog of Federal Domestic Assistance to which this rule applies are:

10.129—Wildfire and Hurricanes Indemnity Program Plus
10.133—Quality Loss Adjustment Program

List of Subjects in 7 CFR Part 760

Dairy products, Indemnity payments, Reporting and recordkeeping requirements.

For the reasons discussed above, FSA amends 7 CFR part 760 as follows:

PART 760—INDEMNITY PAYMENT PROGRAMS

■ 1. Revise the authority citation for part 760 to read as follows:

Authority: 7 U.S.C. 4501 and 1531; 16 U.S.C. 3801, note; 19 U.S.C. 2497; Title III, Pub. L. 109–234, 120 Stat. 474; Title IX, Pub. L. 110–28, 121 Stat. 211; Sec. 748, Pub. L. 111–80, 123 Stat. 2131; Title I, Pub. L. 115–123, 132 Stat. 65; Title I, Pub. L. 116–20, 133 Stat. 871; and Division B, Title VII, Pub. L. 116–94, 133 Stat. 2658.

Subpart O—Agricultural Disaster Indemnity Programs

§ 760.1500 [Amended]

■ 2. In § 760.1500(c), remove the words ''and wildfires'' and add ''wildfires, excessive moisture, and qualifying drought'' in their place.

■ 3. Amend § 760.1502 as follows:

■ a. In the definition of ''Qualifying disaster event'', in paragraph (2) of remove the word ''wildfire'' and add ''wildfire, excessive moisture, qualifying drought'' in its place; and

■ b. Add the definitions of ''Qualifying drought'' and ''U.S. Drought Monitor'' in alphabetical order.

The additions read as follows:

§ 760.1502 Definitions.

* * * * *

Qualifying drought means an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year.

* * * * *

U.S. Drought Monitor is a system for classifying drought severity according to a range of abnormally dry to exceptional drought. It is a collaborative effort between Federal and academic partners, produced on a weekly basis, to synthesize multiple indices, outlooks, and drought impacts on a map and in narrative form. This synthesis of indices is reported by the National Drought Mitigation Center at *http://droughtmonitor.unl.edu.*

* * * * *

■ 4. In § 760.1503, add paragraph (j) to read as follows.

§ 760.1503 Eligibility.

* * * * *

(j) Members of cooperative processors are not eligible for WHIP+ assistance for sugar beet losses.

§ 760.1508 [Amended]

■ 5. Amend § 760.1508 as follows:

■ a. In paragraph (c), remove the cross reference ''paragraph (b)(1)'' and add the cross reference ''paragraph (b)'' in its place; and

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■ b. In paragraph (f), remove the cross reference ''paragraph (b)(1)'' and add cross reference ''paragraph (e)'' in its place.

§ 760.1510 [Amended]

■ 6. In § 760.1510(a), remove the words ''a date that will be announced by the Deputy Administrator'' and add ''October 30, 2020'' in their place.

§ 760.1511 [Amended]

■ 7. In § 760.1511(a)(6), remove the cross reference ''paragraph (f)'' and add cross reference ''paragraph (g)'' in its place.

■ 8. Add subpart R, consisting of §§ 760.1800 through 760.1814, to read as follows:

Subpart R—Quality Loss Adjustment Program

Sec.

760.1800 Applicability.
760.1801 Administration.
760.1802 Definitions.
760.1803 Participant eligibility.
760.1804 Eligibility of affected production.
760.1805 Qualifying disaster events.
760.1806 Ineligible losses.
760.1807 Miscellaneous provisions.
760.1808 General provisions.
760.1809 Payment and adjusted gross income limitation.
760.1810 Time and method of application.
760.1811 Required documentation and verification.
760.1812 Payment calculation.
760.1813 Availability of funds and timing of payments.
760.1814 Requirement to purchase crop insurance or NAP coverage.

§ 760.1800 Applicability.

This subpart specifies the terms and conditions for the Quality Loss Adjustment (QLA) Program. The QLA Program provides disaster assistance for crop quality losses that were a consequence of hurricanes, excessive moisture, floods, qualifying drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.

§ 760.1801 Administration.

(a) The QLA Program is administered under the general supervision of the Administrator, Farm Service Agency (FSA), and the Deputy Administrator for Farm Programs, FSA. The QLA Program is carried out by FSA State and county committees with instructions issued by the Deputy Administrator.

(b) FSA State and county committees, and representatives and their employees, do not have authority to modify or waive any of the provisions of the regulations in this subpart or instructions issued by the Deputy Administrator.

(c) The FSA State committee will take any action required by the regulations in this subpart that the FSA county committee has not taken. The FSA State committee will also:

(1) Correct, or require an FSA county committee to correct, any action taken by the FSA county committee that is not in accordance with the regulations in this subpart; or

(2) Require an FSA county committee to withhold taking any action that is not in accordance with this subpart.

(d) No delegation to an FSA State or county committee precludes the FSA Administrator or the Deputy Administrator from determining any question arising under this subpart or from reversing or modifying any determination made by an FSA State or county committee.

(e) The Deputy Administrator has the authority to:

(1) Permit State and county committees to waive or modify a non-statutory deadline specified in this subpart; and

(2) Delegate authority to FSA State or county committees to make determinations under § 760.1812(f) and (g).

(f) Items of general applicability to program participants, including, but not limited to, application periods, application deadlines, internal operating guidelines issued to FSA State and county offices, prices, and payment factors established under this subpart, are not subject to appeal in accordance with part 780 of this chapter.

§ 760.1802 Definitions.

The following definitions apply to this subpart. The definitions in §§ 718.2 and 1400.3 of this title also apply, except where they conflict with the definitions in this section. In the event of conflict, the definitions in this section apply.

Affected production means the producer's ownership share of harvested production of an eligible crop, adjusted to standard moisture as established by the U.S. Grains Standards Act, a State regulatory agency, or industry standard, that had both:

(1) A quality loss due to a qualifying disaster event; and

(2) At least a 5 percent quality loss due to all eligible disaster events.

Average market price means the average market price determined according to § 1437.12 of this title.

Coverage level means the percentage determined by multiplying the elected yield percentage under a crop insurance policy or NAP coverage by the elected price percentage.

Crop insurance means an insurance policy reinsured by FCIC under the provisions of the Federal Crop Insurance Act, as amended. It does not include private plans of insurance.

Crop insurance indemnity means, for the purpose of this subpart, the payment to a participant for crop losses covered under crop insurance administered by RMA in accordance with the Federal Crop Insurance Act (7 U.S.C. 1501–1524).

Crop year means:

(1) For insurable crops, the crop year as defined according to the applicable crop insurance policy; and

(2) For NAP-eligible crops, the crop year as defined in § 1437.3 of this title.

Eligible crop means a crop for which coverage was available either from FCIC under part 400 of this title, or through NAP under § 1437.4 of this title.

Eligible disaster event means a disaster event that is an eligible cause of loss specified in § 1437.10 of this title, excluding insect infestation.

FCIC means the Federal Crop Insurance Corporation, a wholly owned Government Corporation of USDA, administered by RMA.

FSA means the Farm Service Agency, an agency of USDA.

Grading factor means a factor that describes the physical condition or a feature that is evaluated to determine the quality of the production, such as broken kernels and low-test weight.

Good farming practices means the cultural practices generally recognized as compatible with agronomic and weather conditions and used for the crop to make normal progress toward maturity, as determined by FSA. These practices are:

(1) For conventional farming practices, those generally recognized by agricultural experts for the area, which could include one or more counties; or

(2) For organic farming practices, those generally recognized by the organic agricultural experts for the area or contained in the organic system plan that is in accordance with the National Organic Program specified in part 205 of this title.

Harvested means:

(1) For insurable crops, harvested as defined according to the applicable crop insurance policy;

(2) For NAP-eligible single harvest crops, that a crop has been removed from the field, either by hand or mechanically;

(3) For NAP-eligible crops with potential multiple harvests in 1 year or harvested over multiple years, that the producer has, by hand or mechanically, removed at least 1 mature crop from the field during the crop year; and

(4) For mechanically harvested NAP-eligible crops, that the crop has been

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removed from the field and placed in a truck or other conveyance, except hay is considered harvested when in the bale, whether removed from the field or not.

Insurable crop means an agricultural crop (excluding livestock) for which the producer on a farm is eligible to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501–1524).

Multiple market crop means a crop that is delivered to a single market but can have fresh and processed prices based on grading. For example, a producer may intend to sell all production of an apple crop as fresh production; however, based on grading of the crop at the market, the producer is compensated for some production at the fresh price and for some production at the processing price.

Multiple planting means the planting for harvest of the same crop in more than one planting period in a crop year on different acreage.

NAP means the Noninsured Crop Disaster Assistance Program under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) and part 1437 of this title.

NAP-eligible crop means an agricultural crop for which the producer on a farm is eligible to obtain NAP coverage.

NAP service fee means the amount specified in § 1437.7 of this title that the producer must pay to obtain NAP coverage.

Nutrient factor means a factor determined by a test that measures the nutrient value of a crop to be fed to livestock. Examples include, but are not limited to, relative feed value and total digestible nutrients.

Production means quantity of the crop produced, which is expressed in a specific unit of measure including, but not limited to, bushels or pounds.

QLA Program means the Quality Loss Adjustment Program.

Qualifying disaster event means a hurricane, flood, tornado, typhoon, volcanic activity, snowstorm, wildfire, excessive moisture, qualifying drought, or a related condition that occurred in the 2018 or 2019 calendar year.

Qualifying drought means an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year.

Quality loss means:

(1) For forage crops, a reduction in an applicable nutrient factor for the crop; and

(2) For crops other than forage, a reduction in the total dollar value of the crop due to reduction in the physical condition of the crop indicated by an applicable grading factor.

Related condition means damaging weather or an adverse natural occurrence that occurred as a direct result of a specified qualifying disaster event, such as excessive rain, high winds, flooding, mudslides, and heavy smoke, as determined by the Deputy Administrator. The term does not include insect infestation.

Reliable production record means evidence provided by the participant that is used to substantiate the amount of production reported when verifiable records are not available, including copies of receipts, ledgers of income, income statements of deposit slips, register tapes, invoices for custom harvesting, and records to verify production costs, contemporaneous measurements, truck scale tickets, and contemporaneous diaries that are determined acceptable by the FSA county committee. To determine whether the records are acceptable, the FSA county committee will consider whether they are consistent with the records of other producers of the crop in that area.

RMA means the Risk Management Agency, an agency of USDA.

Salvage value means the dollar amount or equivalent for the quantity of the commodity that cannot be marketed or sold in any recognized market for the crop.

Secondary use means the harvesting of a crop for a use other than the intended use.

Unit of measure means:

(1) For insurable crops, the FCIC-established unit of measure; and

(2) For NAP-eligible crops, the established unit of measure used for the NAP price and yield.

USDA means the U.S. Department of Agriculture.

U.S. Drought Monitor is a system for classifying drought severity according to a range of abnormally dry to exceptional drought. It is a collaborative effort between Federal and academic partners, produced on a weekly basis, to synthesize multiple indices, outlooks, and drought impacts on a map and in narrative form. This synthesis of indices is reported by the National Drought Mitigation Center at *http://droughtmonitor.unl.edu.*

Value loss crop has the meaning specified in subpart D of part 1437 of this title.

Verifiable documentation means evidence that can be verified by FSA through an independent source.

Verifiable percentage of loss is the percentage of loss determined by comparing the applicable nutrient factors for a producer's affected production of a forage crop with the average of such nutrient factors from the 3 preceding crop years, as documented on FSA–899, Historical Nutritional Value Weighted Average Worksheet.

WHIP+ means the Wildfires and Hurricanes Indemnity Program Plus under subpart O of this part.

§ 760.1803 Participant eligibility.

(a) Participants will be eligible to receive a payment under this subpart only if they incurred a loss to an eligible crop due to a qualifying disaster event, as further specified in this subpart.

(b) To be an eligible participant under this subpart, a person or legal entity must be a:

(1) Citizen of the United States;

(2) Resident alien; for purposes of this subpart, resident alien means ''lawful alien'' (see § 1400.3 of this title);

(3) Partnership consisting solely of citizens of the United States or resident aliens; or

(4) Corporation, limited liability company, or other similar organizational structure organized under State law consisting solely of citizens or resident aliens of the United States.

(c) If any person who would otherwise be eligible to receive a payment dies before the payment is received, payment may be released as specified in § 707.3 of this chapter. Similarly, if any person or legal entity who would otherwise have been eligible to apply for a payment dies or is dissolved, respectively, before the payment is applied for, payment may be released in accordance with this subpart if a timely application is filed by an authorized representative. Proof of authority to sign for the deceased producer or dissolved entity must be provided. If a participant is now a dissolved general partnership or joint venture, all members of the general partnership or joint venture at the time of dissolution or their duly authorized representatives must sign the application. Eligibility of such participant will be determined, as it is for other participants, based upon ownership share and risk in producing the crop.

(d) An ownership share is required to be eligible for a payment under this subpart. Growers growing eligible crops under contract for crop owners are not eligible for a payment under this subpart unless the grower is also determined to have an ownership share of the crop. Any verbal or written contract that precludes the grower from having an ownership share renders the

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grower ineligible for payments under this subpart.

(e) A person or legal entity is not eligible to receive assistance under this subpart if FSA determines that the person or legal entity:

(1) Adopted any scheme or other device that tends to defeat the purpose of this subpart or any of the regulations applicable to this subpart;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination under any or all of the following: This subpart and parts 12, 400, 1400, and 1437 of this title.

(f) A person who is ineligible for crop insurance or NAP under § 400.458 or § 1437.16 of this title, respectively, for any year is ineligible for payments under this subpart for the same year.

(g) The provisions of § 718.11 of this chapter, providing for ineligibility for payments for offenses involving controlled substances, apply.

(h) As a condition of eligibility to receive payments under this subpart, the participant must have been in compliance with the Highly Erodible Land Conservation and Wetland Conservation provisions of part 12 of this title for the applicable crop year for which the producer is applying for benefits under this subpart, and must not otherwise be precluded from receiving payments under part 12, 400, 1400, or 1437 of this title or any law.

§ 760.1804 Eligibility of affected production.

(a) To be eligible for the QLA Program, an eligible crop's affected production must have suffered a quality loss due to a qualifying disaster event and had at least a 5 percent quality loss due to all eligible disaster events. Whether affected production of a crop had a 5 percent loss will be determined separately for crops with different crop types, intended uses, certified organic or conventional status, county, and crop year.

(b) Affected production of the following is not eligible for the QLA Program:

(1) Crops that were not grown commercially;

(2) Crops that were intended for grazing or were grazed;

(3) Crops not intended for harvest;

(4) Volunteer crops;

(5) Value loss crops;

(6) Maple sap;

(7) Honey;

(8) By-products resulting from processing or harvesting a crop, such as, but not limited to, cotton seed, peanut shells, wheat or oat straw, or corn stalks or stovers;

(9) First-year seeding for forage production;

(10) Immature fruit crops;

(11) Crops for which FCIC coverage or NAP coverage is unavailable;

(12) Multiple market crops for which the producer previously received a crop insurance indemnity or WHIP+ payment for a quality loss;

(13) Crops for which production used to calculate a crop insurance indemnity or WHIP+ payment was adjusted based on a comparison of the producer's sale price to FCIC established price;

(14) Crops that received a crop insurance indemnity, NAP payment, or WHIP+ payment based on the quantity of production that was considered unmarketable;

(15) Crops for which the producer previously received a crop insurance indemnity, NAP payment, or WHIP+ payment for which production was reported as salvage value or secondary use;

(16) Sugar beets for which a member of a cooperative processor received a payment through a cooperative agreement; and

(17) Crops that were destroyed.

(c) Only affected production from initial crop acreage will be eligible for a QLA Program payment, unless the provisions for subsequent crops in this section are met. All plantings of an annual or biennial crop are considered the same as a planting of an initial crop in tropical regions as defined in part 1437, subpart F, of this title.

(d) In cases where there is double cropped acreage, affected production of each crop may be eligible only if the specific crops are approved by the FSA State committee as eligible double cropping practices in accordance with procedures approved by the Deputy Administrator.

(e) Participants having affected production from multiple plantings may receive payments for each planting only if the planting meets the requirements of part 1437 of this title and all other provisions of this subpart are satisfied.

§ 760.1805 Qualifying disaster events.

(a) A producer is eligible for payments under this subpart only if the producer's affected production of an eligible crop suffered a crop quality loss due to a qualifying disaster event.

(b) A crop quality loss due to a qualifying disaster event must have occurred on acreage that was physically located in a county that received a:

(1) Presidential Emergency Disaster Declaration authorizing public assistance for categories C through G or individual assistance due to a qualifying disaster event occurring in the 2018 or 2019 calendar years; or

(2) Secretarial Disaster Designation for a qualifying disaster event occurring in the 2018 or 2019 calendar years.

(c) A producer with a crop quality loss on acreage not physically located in a county that was eligible under paragraph (b) of this section will be eligible for the QLA Program for losses due to qualifying disaster events only if the producer provides supporting documentation from which the FSA county committee determines that the crop quality loss on the unit was reasonably related to a qualifying disaster event as specified in this subpart. Supporting documentation may include furnishing climatological data from a reputable source or other information substantiating the claim of loss due to a qualifying disaster event.

§ 760.1806 Ineligible losses.

(a) A loss is not eligible under this subpart if any of the following apply:

(1) The cause of loss is determined by FSA to be the result of poor management decisions, poor farming practices, or drifting herbicides;

(2) The loss could have been mitigated using good farming practices, including losses due to high moisture content that could be mitigated by following best practices for drying and storing the crop;

(3) The qualifying disaster event occurred after the crop was harvested;

(4) FSA or RMA have previously disapproved a notice of loss for the crop and disaster event, unless that notice of loss was disapproved solely because it was filed after the applicable deadline; or

(5) The cause of loss was due to:

(i) Conditions or events occurring outside of the applicable growing season for the crop;

(ii) Insect infestation;

(iii) Water contained or released by any governmental, public, or private dam or reservoir project if an easement exists on the acreage affected by the containment or release of the water;

(iv) Failure of a power supply or brownout; or

(v) Failure to harvest or market the crop due to lack of a sufficient plan or resources.

(b) [Reserved]

§ 760.1807 Miscellaneous provisions.

(a) All persons with a financial interest in a legal entity receiving payments under this subpart are jointly and severally liable for any refund, including related charges, that is determined to be due to FSA for any reason.

(b) In the event that any application under this subpart resulted from

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erroneous information or a miscalculation, the payment will be recalculated and any excess refunded to FSA with interest to be calculated from the date of the disbursement.

(c) Any payment to any participant under this subpart will be made without regard to questions of title under State law, and without regard to any claim or lien against the commodity, or proceeds, in favor of the owner or any other creditor except agencies of the U.S. Government. The regulations governing offsets and withholdings in part 3 of this chapter apply to payments made under this subpart.

(d) Any participant entitled to any payment may assign any payment(s) in accordance with regulations governing the assignment of payments in part 3 of this chapter.

(e) The regulations in parts 11 and 780 of this title apply to determinations under this subpart.

§ 760.1808 General provisions.

(a) Eligibility and payments under this subpart will be determined based on the county where the affected production was harvested.

(b) FSA county committees will make any necessary adjustments to the applicant's affected production and other information on the application form used to calculate a payment when the county committee determines:

(1) Additional documentation has been requested by FSA but has not been provided by the participant;

(2) The loss is due to an ineligible cause; or

(3) The participant has a contract providing a guaranteed payment for all or a portion of the crop.

(c) Unless otherwise specified, all eligibility provisions of part 1437 of this title also apply to tropical crops for eligibility under this subpart.

(d) FSA will use the most reliable data available at the time payments under this subpart are calculated. If additional data or information is provided or becomes available after a payment is issued, FSA will recalculate the payment amount and the producer must return any overpayment amount to FSA. In all cases, payments can only issue based on the payment formula for losses that affirmatively occurred.

(e) Production that is commingled between counties, crop years, or ineligible and eligible acres before it was a matter of record or combination of record and cannot be separated by using records or other means acceptable to FSA will be prorated to each respective year, county, or type of acreage, respectively.

§ 760.1809 Payment and adjusted gross income limitation.

(a) A person or legal entity, other than a joint venture or general partnership, is eligible to receive, directly or indirectly, payments of not more than $125,000 for each of the 2018, 2019, and 2020 crop years under this subpart.

(b) Payments made to a joint operation, including a joint venture or general partnership, cannot exceed the amount determined by multiplying the maximum payment amount specified in paragraph (a) of this section by the number of persons and legal entities, other than joint operations, that comprise the ownership of the joint operation.

(c) The direct attribution provisions in § 1400.105 of this title apply to payments under this subpart.

(d) The notification of interest provisions in § 1400.107 of this title apply to payments under this subpart.

(e) The provisions for recognizing persons added to a farming operation for payment limitation purposes as described in § 1400.104 of this title apply to payments under this subpart.

(f) The $900,000 average AGI limitation provisions in part 1400 of this title relating to limits on payments for persons or legal entities, excluding joint ventures and general partnerships, apply to each applicant for the QLA Program unless at least 75 percent of the person or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. A person's or legal entity's average AGI for each of the program years 2018, 2019 or 2020, is determined by using the average of the adjusted gross incomes for the 3 taxable years preceding the most immediately preceding taxable year. If the person's or legal entity's average AGI is below $900,000 or at least 75 percent of the person or legal entity's average AGI is derived from farming, ranching, or forestry-related activities, the person or legal entity, is eligible to receive payments under this subpart.

§ 760.1810 Time and method of application.

(a) A completed FSA–898, Quality Loss Adjustment (QLA) Program Application, must be submitted in person, by mail, email, or facsimile to any FSA county office by the close of business on March 5, 2020.

(b) An application submitted in accordance with paragraph (a) of this section is not considered valid and complete for issuance of payment under this subpart unless FSA determines all the applicable eligibility provisions have been satisfied and the producer has submitted all of following by March 19, 2020:

(1) Documentation required by § 760.1811;

(2) FSA–578, Report of Acreage, for all acreage for any crop for which payments under this subpart are requested;

(3) FSA–895, Crop Insurance and/or NAP Coverage Agreement; and

(4) For forage crops, FSA–899, Historical Nutritional Value Weighted Average Worksheet, if verifiable documentation of historical nutrient factors is available.

(c) In addition to the forms listed in paragraph (b) of this section, applicants must also submit all the following eligibility forms within 60 days from the date of signing the QLA Program application if not already on file with FSA:

(1) AD–1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation Certification;

(2) CCC–902 Automated, Farm Operating Plan for Payment Eligibility 2009 and Subsequent Program Years;

(3) CCC–941 Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information; and

(4) CCC–942 Certification of Income from Farming, Ranching and Forestry Operations, if applicable.

(d) Failure to submit all required forms by the applicable deadlines in paragraphs (b) and (c) of this section may result in no payment or a reduced payment.

(e) Application approval and payment by FSA does not relieve a participant from having to submit any form required, but not filed, according to this section.

(f) Once signed by a producer, the application is considered to contain information and certifications of and pertaining to the producer regardless of who entered the information on the application.

(g) The producer applying for payment under this subpart certifies the accuracy and truthfulness of the information provided in the application as well as any documentation filed with or in support of the application. All information is subject to verification or spot check by FSA at any time, either before or after payment is issued. Refusal to allow FSA or any agency of the USDA to verify any information provided will result in the participant's forfeiting eligibility for payment under this subpart. FSA may at any time, including before, during, or after processing and paying an application, require the producer to submit any additional information necessary to implement or determine any eligibility

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provision of this subpart. Furnishing information specified in this subpart is voluntary; however, FSA may choose not to act on the application or approve payment if the required information is not provided. Providing a false certification will result in ineligibility and can also be punishable by imprisonment, fines, and other penalties.

§ 760.1811 Required documentation and verification.

(a) If requested by FSA, an applicant must provide documentation that establishes the applicant's ownership share and value at risk in the crop.

(b) The applicant must provide acceptable documentation that is dated and contains all information required to substantiate the applicant's certification to the satisfaction of the FSA county committee. Verifiable documentation is required to substantiate the total dollar value loss and associated affected production, grading factors, and nutritional factors. FSA may verify the records with records on file at the warehouse, gin, or other entity that received or may have received the reported production. Reliable production records are required to substantiate the reported amount of affected production for applications not based on the total dollar value loss.

(c) To be considered acceptable, verifiable documentation for grain crops that were sold may come from any time between harvest and sale of the affected production, unless the FSA county committee determines the record is not representative of the condition within 30 days of harvest. For all other crops, the verifiable documentation must come from tests or analysis completed within 30 days of harvest, unless the FSA county committee determines that the record is representative of the condition of the affected production at time of harvest. Examples of acceptable records for purposes of this paragraph (c) include:

(1) Warehouse grading sheets;

(2) Settlement sheets;

(3) Sales receipts showing grade and price or disposition to secondary market due to quality; and

(4) Laboratory test results.

(d) For forage crops, producers must submit verifiable documentation showing the nutrient factors for the affected production. Producers must also submit verifiable documentation of the historical nutrient factors for the 3 preceding crop years if available. The nutrient factors that must be documented for a crop will determined by the FSA county committee based on the standard practice for the crop in that county.

(e) For all crops other than forage crops, producers must submit verifiable documentation of the total dollar value loss due to quality, if available, and verifiable documentation of grading factors due to quality.

(f) The participant is responsible for:

(1) Retaining, providing, and summarizing, at time of application and whenever required by FSA, the best available verifiable production records for the crop;

(2) Providing the information in a manner that can be easily understood by the FSA county committee; and

(3) Providing supporting documentation about the disaster event if the FSA county committee has reason to question the disaster event.

(e) Participants must provide all records for any production of a crop that is grown with an arrangement, agreement, or contract for guaranteed payment.

(f) Participants are required to retain documentation in support of their application for 3 years after the date of approval.

(g) Participants receiving QLA Program payments or any other person who furnishes such information to USDA must permit authorized representatives of USDA or the Government Accountability Office, during regular business hours, to enter the agricultural operation and to inspect, examine, and make copies of books, records, or other items for the purpose of confirming the accuracy of the information provided by the participant.

§ 760.1812 Payment calculation.

(a) Payments will be calculated separately for crops based on the crop type, intended use, certified organic or conventional status, county, and crop year.

(b) For forage crops with verifiable documentation of nutrient factors for the affected production and for the 3 preceding crop years, the payment will be equal to the producer's total affected production multiplied by the producer's verifiable percentage of loss, multiplied by the average market price, multiplied by 70 percent.

(c) For forage crops with verifiable documentation of nutrient factors for the affected production but not for the 3 preceding crop years, the payment will be equal to the producer's total affected production multiplied by the county average percentage of loss in paragraph (f) of this section, multiplied by the average market price, multiplied by 70 percent, multiplied by 50 percent.

(d) For crops other than forage with verifiable documentation of the total dollar value loss due to quality, the payment will be equal to the producer's total dollar value loss on the affected production, multiplied by 70 percent.

(e) For crops other than forage without verifiable documentation of the total dollar value loss but with verifiable documentation of grading factors, the payment will be equal to the producer's affected production multiplied by the county average loss per unit of measure in paragraph (g) of this section, multiplied by 70 percent, multiplied by 50 percent.

(f) The county average percentage of loss is the average percentage of loss from producers eligible for payment under paragraph (b) of this section if at least 5 producers in a county are eligible for payment for a crop under paragraph (b) of this section. If less than 5 producers in a county are eligible for payment for a crop under paragraph (b) of this section, the Deputy Administrator will:

(1) Determine a county average percentage of loss based on the best available data, including, but not limited to, evidence of losses in contiguous counties; or

(2) If a county average percentage of loss cannot be determined due to insufficient data, not issue payments to applicants under paragraph (c) of this section.

(g) The county average loss per unit of measure is based on the weighted average sales price from producers eligible for payment under paragraph (d) of this section if at least 5 producers in a county are eligible for payment for a crop under paragraph (d) of this section. If less than 5 producers are eligible for payment in a county under paragraph (d) of this section, the Deputy Administrator will:

(1) Determine a county average loss per unit of measure based on the best available data, including, but not limited to, evidence of losses in contiguous counties; or

(2) If a county average loss per unit of measure cannot be determined due to insufficient data, not issue payments to applicants under paragraph (e) of this section.

§ 760.1813 Availability of funds and timing of payments.

(a) Payments will be issued after the application period has ended and all applications have been reviewed by FSA.

(b) In the event that, within the limits of the funding made available by the Secretary, approval of eligible applications would result in payments

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in excess of the amount available, FSA will prorate payments by a national factor to reduce the payments to an amount that is less than available funds as determined by the Secretary.

(c) Applications and claims that are unpaid or prorated for any reason will not be carried forward for payment under other funds for later years or otherwise, but will be considered, as to any unpaid amount, void and nonpayable.

§ 760.1814 Requirement to purchase crop insurance or NAP coverage.

(a) For the first 2 consecutive crop years for which crop insurance or NAP coverage is available after the enrollment period for the QLA Program ends, a participant who receives payment under this subpart for a crop loss in a county must obtain:

(1) For an insurable crop, crop insurance with at least a 60 percent coverage level for that crop in that county; or

(2) For a NAP-eligible crop, NAP coverage with a coverage level of 60 percent.

(b) Participants who exceed the average adjusted gross income limitation for NAP payment eligibility [1] for the applicable crop year may meet the purchase requirement specified in paragraph (a)(2) of this section by purchasing Whole-Farm Revenue Protection crop insurance coverage, if eligible, or paying the NAP service fee and premium even though the participant will not be eligible to receive a NAP payment due to the average adjusted gross income limit.

(c) The final crop year to purchase crop insurance or NAP coverage to meet the requirements of paragraph (a) of this section is the 2023 crop year.

(d) A participant who obtained crop insurance or NAP coverage for the crop in accordance with the requirements for WHIP+ in § 760.1517 is considered to have met the requirement to purchase crop insurance or NAP coverage for the QLA Program.

(e) If a producer fails to obtain crop insurance or NAP coverage as required in this section, the producer must reimburse FSA for the full amount of QLA Program payment plus interest. A producer will only be considered to have obtained NAP coverage for the purposes of this section if the participant submitted a NAP application for coverage and paid the requisite NAP service fee and any applicable premium by the applicable deadline and completed all program requirements required under the coverage agreement, including filing an acreage report.

Richard Fordyce,

Administrator, Farm Service Agency.

[FR Doc. 2020–28914 Filed 1–5–21; 8:45 am]

BILLING CODE 3410–05–P

[1] See §§ 1400.500(a) and 1400.1(a)(4) of this title.

DEPARTMENT OF ENERGY

10 CFR Part 1061

RIN 1990–AA50

Procedures for the Issuance of Guidance Documents

AGENCY: Office of the General Counsel, Department of Energy.

ACTION: Final rule.

SUMMARY: The U.S. Department of Energy (DOE) publishes this final rule to establish procedures for the issuance of DOE guidance documents in accordance with Executive Order 13891. In this final rule, DOE establishes internal agency requirements for the contents of guidance documents, and procedures for providing notice of, and soliciting public comment on, certain guidance documents. This final rule also establishes procedures for the public to petition DOE to modify or withdraw guidance documents.

DATES: The effective date of this rule is February 5, 2021.

ADDRESSES: The docket for this rulemaking, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *https://www.regulations.gov*. All documents in the docket are listed in the *https://www.regulations.gov* index. However, not all documents listed in the index, such as those containing information that is exempt from public disclosure by law, may be publicly available. A link to the docket web page can be found at *https://www.regulations.gov/document?D=DOE-HQ-2020-0033-0001*. The docket web page explains how to access all documents, including public comments, in the docket.

FOR FURTHER INFORMATION CONTACT: Mr. Matthew Ring, U.S. Department of Energy, Office of the General Counsel, Forrestal Building, GC–33, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–2555, Email: *Guidance@hq.doe.gov*.

SUPPLEMENTARY INFORMATION:

I. Summary of Final Rule

In this final rule, DOE incorporates into the Code of Federal Regulations a new 10 CFR part 1061, which implements the requirements of Executive Order 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents.'' (84 FR 55235 (Oct. 15, 2019)) Among other things, Executive Order 13891 requires agencies to provide more transparency for their guidance documents by creating a searchable online database for current guidance documents,[1] and by establishing procedures to allow the public to comment on significant guidance documents and to petition the agency to withdraw or modify guidance documents.[2] Moreover, the Executive Order requires agencies to clearly state in their guidance documents that such guidance does not have the force and effect of law and is not legally binding, except as authorized by law or as incorporated into a contract. (84 FR 55235, 55237)

This final rule applies to all DOE guidance documents, as defined by Executive Order 13891, including the exceptions listed in section 2 of the Executive Order. This final rule also lists specific types of documents and communications that fall within the broader exceptions listed in the Executive Order (*e.g.,* speeches and presentations given by DOE officials, legal positions taken in litigation or enforcement actions). (See also OMB M–20–02, Guidance Implementing Executive Order 13891, Titled ''Promoting the Rule of Law Through Improved Agency Guidance Documents'' (Oct. 31, 2019), available at *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*). This final rule also adopts the same definition of ''significant guidance document'' as section 2 of Executive Order 13891.

In accordance with Executive Order 13891, this final rule requires that all DOE guidance documents clearly state that they do not have the force and effect of law and are not legally binding on the public, and that they are only intended to provide clarity to the public

[1] DOE's online database may be found at *energy.gov/guidance*.

[2] Executive Order 13891 defines ''significant guidance document'' as ''a guidance document that may reasonably be anticipated to: (i) Lead to an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (ii) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (iii) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (iv) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles of Executive Order 12866.'' (84 FR 55235, 55236)

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An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

Elizabeth K. Appel,

Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2021–00317 Filed 1–8–21; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–OIA–31249; PIN00IO14.XI0000]

U.S. Nominations to the World Heritage List; 15-Day Notice of Opportunity for Public Comment

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: This notice requests public comment on the next potential U.S. nominations from the U.S. World Heritage Tentative List (''Tentative List'') to the United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage List. The public may also make suggestions for future additions to the Tentative List. This notice complies with applicable World Heritage Program regulations.

DATES: Comments will be accepted on or before January 26, 2021.

ADDRESSES: You may submit comments by either of the following methods:

- *Mail to:* Jonathan Putnam, Office of International Affairs, National Park Service, 1849 C Street NW, Washington, DC 20240.
- *Email to: jonathan_putnam@nps.gov*. Phone: (202) 354–1809.

Comments will not be accepted in any way other than those specified above.

Information on the U.S. World Heritage program can be found at: *https://www.nps.gov/subjects/internationalcooperation/worldheritage.htm*.

To request a paper copy of the U.S Tentative List, please contact April Brooks, Office of International Affairs, National Park Service, 1849 C Street NW, Room 2415, Washington, DC 20240 (202) 354–1808, or Email: *april_brooks@nps.gov*.

FOR FURTHER INFORMATION CONTACT: Jonathan Putnam, (202) 354–1809.

For the World Heritage nomination format, see the World Heritage Centre website at: *http://whc.unesco.org/en/nominations*.

SUPPLEMENTARY INFORMATION:

Background

The World Heritage List is an international list of cultural and natural properties nominated by the signatories to the World Heritage Convention (1972), an international treaty for the preservation of natural and cultural heritage sites of global significance. U.S. participation and the roles of the Department of the Interior and the National Park Service are authorized by Title IV of the Historic Preservation Act Amendments of 1980 and conducted in accordance with 36 CFR part 73—World Heritage Convention. The National Park Service serves as the principal technical agency for the U.S. Government to the Convention.

A Tentative List is a national list of natural and cultural properties appearing to meet the World Heritage Committee eligibility criteria for nomination to the World Heritage List. It is a list of candidate sites which a country may consider for nomination within a given time period, but does not guarantee future nomination. The World Heritage Committee's *Operational Guidelines* ask participating nations to provide Tentative Lists, which aid in evaluating properties for the World Heritage List on a comparative international basis and help the Committee to schedule its work over the long term. A country cannot nominate a property unless it has been on its Tentative List for a minimum of a year. Countries also are limited at this time to nominating no more than one site in any given year.

Neither inclusion in the Tentative List nor inscription as a World Heritage Site imposes legal restrictions on owners or neighbors of sites, nor does it give the United Nations any management authority or ownership rights in U.S. World Heritage Sites, which continue to be subject to U.S. laws.

Current U.S. World Heritage Tentative List

The current U.S. World Heritage Tentative List includes the following properties:

Cultural Sites

Civil Rights Movement Sites, Alabama [other properties would be added for a complete nomination]

—Dexter Avenue King Memorial Baptist Church, Montgomery
—Bethel Baptist Church, Birmingham
—16th Street Baptist Church, Birmingham

Dayton Aviation Sites, Ohio

—Dayton Aviation Heritage National Historical Park

Hopewell Ceremonial Earthworks, Ohio

—Fort Ancient State Memorial, Warren County
—Hopewell Culture National Historical Park, near Chillicothe
—Newark Earthworks State Historic Site, Newark and Heath

Jefferson (Thomas) Buildings, Virginia (Proposed Jointly as an Extension to the World Heritage Listing of Monticello and the University of Virginia Historic District)

—Poplar Forest, Bedford County
—Virginia State Capitol, Richmond

Mount Vernon, Virginia

Serpent Mound, Ohio

Ellis Island, New Jersey and New York

Chicago Early Skyscrapers, Illinois, including: [Other Properties May Be Added in the Course of Developing a Nomination]

—Rookery
—Auditorium Building
—Monadnock Building
—Ludington Building
—Marquette Building
—Old Colony Building
—Schlesinger & Mayer (Carson, Pirie Scott) Department Store
—Second Leiter Building
—Fisher Building

Central Park, New York

Brooklyn Bridge, New York

Moravian Bethlehem District, Pennsylvania

Natural Sites

National Marine Sanctuary of American Samoa (Formerly Fagatele Bay National Marine Sanctuary, American Samoa)

Okefenokee National Wildlife Refuge, Georgia

Petrified Forest National Park, Arizona

White Sands National Monument, New Mexico

Marianas Trench National Monument, U.S. Territory, Commonwealth of the Northern Mariana Islands, Guam

Central California Current, California, Including

—Cordell Bank National Marine Sanctuary
—Monterey Bay National Marine Sanctuary
—Greater Farallones National Marine Sanctuary
—Farallon Islands National Wildlife Refuge

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NM-OTERO-21-0275-A-000598

—Point Reyes National Seashore
—Golden Gate National Recreation Area

Big Bend National Park, Texas

Pacific Remote Islands National Monument, U.S. Territorial Waters

Notes: (1) A nomination for the Hopewell Ceremonial Earthworks was authorized for preparation in May 2018 by the Department of the Interior and is now under development. (2) The Department has requested and is now awaiting advice from the International Council on Monuments and Sites (ICOMOS) on adding other properties to the proposal for the Civil Rights Movement Sites and its overall justification. (3) The government of the German state of Saxony is proposing an extension to the World Heritage listing of Christiansfeld, a Moravian Church Settlement in Denmark, that would include Herrnhut in Germany, the Moravian Bethlehem District in Bethlehem, Pennsylvania, and potentially other historic Moravian settlements in other countries.

Request for Public Comments

Comments on whether to authorize the preparation of a World Heritage nomination for any of the properties on the Tentative List should address the readiness and ability of the property owner(s) to prepare a satisfactory nomination document. Suggestions for additions to the Tentative List not previously submitted must address: (i) How the property(ies) would meet the World Heritage nomination criteria, requirements for authenticity, integrity, legal protection and management. Information on these criteria and requirements can be found on the website noted in the **FOR FURTHER INFORMATION CONTACT** section of this notice; and (ii) The U.S. legal prerequisites that include the agreement of all property owners to the nomination of their property, an official determination that the property is nationally significant (such as by designation as a National Historic or National Natural Landmark), and effective legal protection. All previous suggestions for the Tentative List made during previous comment periods or otherwise submitted since 2008, have been retained and considered and should not be resubmitted at this time.

Selection and Nomination

All public comments will be summarized and provided to Department of the Interior officials, who will obtain the advice of the Federal Interagency Panel for World Heritage before making any selection of properties for authorization to prepare a World Heritage nomination. The selection may include relevant factors, such as the likelihood of being able to complete a satisfactory nomination, and the fact that the United States is currently prohibited by law from providing any funding to UNESCO, including UNESCO and World Heritage member dues. Once authorized, the property owners may prepare a draft nomination.

The Department does not have a fixed schedule for completing or submitting World Heritage nominations. No more than one nomination from any country may be submitted per year, per the UNESCO World Heritage *Operational Guidelines.* Completed nominations, if approved by the Department for submission, may be submitted to the UNESCO World Heritage Centre by February 1 of any year.

Public Availability of Comments

All comments will be a matter of public record. Before including an address, phone number, email address, or other personal identifying information in a comment, members of the public should be aware that the entire comment—including personal identifying information—may be made public at any time. While commenters can request that personal identifying information be withheld from public review, it may not be possible to comply with this request.

Authority: 54 U.S.C. 307101; 36 CFR part 73.

George Wallace,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2021–00310 Filed 1–8–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#-31331; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before December 25, 2020, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by January 26, 2021.

ADDRESSES: Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line ''Public Comment on property or proposed district name, (County) State.'' If you have no access to email you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before December 25, 2020. Pursuant to Section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State or Tribal Historic Preservation Officers:

CALIFORNIA

Orange County

Johnson, Hugh Edgar, House, 444 W. Brookdale Pl., Fullerton, SG100006089

FLORIDA

Monroe County

Matecumbe Methodist Church Cemetery, 81801 Overseas Hwy., Islamorada, SG100006117

Pinellas County

House at 827 Mandalay Avenue, 827 Mandalay Ave., Clearwater, SG100006118

Sumter County

Wild Cow Prairie Cemetery, 5822 Cty. Rd. 673, Bushnell vicinity, SG100006119

Volusia County

Wright, James W., Building, 258 West Voorhis Ave., DeLand, SG100006120

Walton County

Herman Lodge No. 108 Free & Accepted Masons of Florida, 314 Madison St., Freeport, SG100006121

ILLINOIS

Cook County

Irving, James B., House, 2771 Crawford Ave., Evanston, SG100006102

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From: Jonna Lou Schafer <boredwell@dellcity.com>
Sent: Monday, January 11, 2021 9:20 PM EST
To: Couy Griffin <cgriffin@co.otero.nm.us>; Gerald Matherly <gmatherly@co.otero.nm.us>; Vickie Marquardt <vmarquardt@co.otero.nm.us>
CC: Pamela Heltner <pheltner@co.otero.nm.us>; Brian Muise <b.k.muise@gmail.com>; Gary Scarbrough <gary@dellcity.com>; Henerietta Stockel <hstockel@tularosa.net>; Jeff Stephan <pc1chap.nm@gmail.com>; Jeff Stephen <casadeosos.jeff@gmail.com>; Judy Medeiros <judymedeiros@msn.com>; Schafer <boredwell@dellcity.com>; Sidney Gordon <sgordon@nmsu.edu>; Twyla Lewis <tflewis@pvtn.net>; Walt Coffman <walt@pvtnetworks.net>
Subject: Fw: Linebery weekly email (federal register)
Attachment(s): "2020-28879.pdf","2020-28881.pdf","2020-28914.pdf","2021-00310.pdf"

FYI

From: Nicholas Ashcroft
Sent: Monday, January 11, 2021 7:03 PM
To:
Subject: Linebery weekly email (federal register)

2020-28879 - Council on Environmental Quality. Notice of online portal for agency guidance documents.

2020-28881- Council on Environmental Quality. Final rule.

2020-28914- Agricultural Disaster Indemnity Programs: Farm Service Agency (FSA), Department of Agriculture (USDA). Final rule.

2021-00310- U.S. Nominations to the World Heritage List; 15-Day Notice of Opportunity for Public Comment: National Park Service, Interior.

Nick Ashcroft
Natural Resource Policy Analyst
Linebery Policy Center for Natural Resource Management

nashcrof@nmsu.edu
575-646-5508 (office)

Confidential/Proprietary Note:
Access to this email by anyone other than the intended addressee is unauthorized. This e-mail, including all attachments is for the sole use of the intended recipients. Any unauthorized review, use, disclosure or distribution is prohibited unless specifically provided under the New Mexico Inspection of Public Records Act. If you are not the intended recipient, please reply to or forward a copy of this message to the sender and delete the message, any attachments, and any copies thereof from your system. Thank you.

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7910–00–685–6660—Pad, Machine, Scrubbing, Floor, 17″ x ¼″
7910–00–685–6671—Pad, Machine, Polishing, Floor, 15″ x ¼″
7910–00–685–6672—Pad, Machine, Polishing, Floor, 17″ x ¼″
7910–00–685–6686—Pad, Machine, Polishing, Floor, 12″ x ¼″
7910–00–685–6687—Pad, Machine, Polishing, Floor, 13″ x ¼″
7910–00–820–7989—Pad, Floor, Buffing, Nylon, Tan, 15″
7910–00–NIB–0006—Pad, Floor, Burnishing, Animal Hair, Gray, 17″
7910–00–NIB–0009—Pad, Floor, Burnishing, Animal Hair, Gray, 21″
7910–00–NIB–0016—Pad, Floor, Polishing, Animal Hair, Beige, 17″
7910–00–NIB–0029—Pad, Floor, Buffing, Polyester, Red, 14″
7910–00–NIB–0030—Pad, Floor, Buffing, Polyester, Red, 15″
7910–00–NIB–0034—Pad, Floor, Scrubbing, Polyester, Blue, 14″
7910–00–NIB–0040—Pad, Floor, Scrubbing, Polyester, Blue, 21″
7910–01–512–5933—Pad, Floor, Stripping, Polyester, Brown, 17″
7910–01–512–5937—Pad, Floor, Scrubbing, Polyester, Blue, 13″
7910–01–512–5950—Pad, Floor, Scrubbing, Polyester, Blue, 17″

Designated Source of Supply: Beacon Lighthouse, Inc., Wichita Falls, TX
Contracting Activity: GSA/FSS Greater Southwest ACQUISITI, Fort Worth, TX

Michael R. Jurkowski,

Deputy Director, Business & PL Operations.

[FR Doc. 2021–00151 Filed 1–7–21; 8:45 am]

BILLING CODE 6353–01–P

COUNCIL ON ENVIRONMENTAL QUALITY

Guidance Document Online Portal

AGENCY: Council on Environmental Quality.

ACTION: Notice of online portal for agency guidance documents.

SUMMARY: In accordance with Executive Order (E.O.) 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' dated October 9, 2019, and Office of Management and Budget (OMB) Memorandum M–20–02, dated October 31, 2019, the Council on Environmental Quality (CEQ) is providing notice of where the public may access CEQ guidance documents.

ADDRESSES: The portal may be found at *https://www.whitehouse.gov/ceq/resources/*.

FOR FURTHER INFORMATION CONTACT: Amy B. Coyle, Deputy General Counsel, Council on Environmental Quality, 730 Jackson Place NW, Washington, DC 20503, 202–395–5750, *amy.b.coyle@ceq.eop.gov*.

SUPPLEMENTARY INFORMATION: E.O. 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' [1] requires that each agency establish or maintain on its website a single, searchable, indexed database that contains or links to all agency guidance documents [2] in effect. In accordance with E.O. 13891 and OMB's implementing guidance, set forth in OMB Memorandum M–20–02,[3] CEQ has complied with this requirement through its website portal, which is available to the public at *whitehouse.gov/ceq/resources*.[4] As required by E.O. 13891, the website also reiterates that: (1) The contents of the guidance documents accessed through the portal lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract; and (2) these documents are intended only to provide clarity to the public regarding existing requirements under statutes and regulations administered by CEQ. Under the E.O., CEQ may not cite, use, or rely on any guidance document that is not posted on or linked to the website portal, except to establish historical facts.

CEQ will also include on its website portal a link to its final rule establishing CEQ's internal agency procedures for issuing guidance documents, required by section 4 of E.O. 13891. The final rule relating to CEQ's guidance document procedures is published elsewhere in this issue of the **Federal Register**.

Authority: 42 U.S.C. 4321–4347; 42 U.S.C. 4371–4375; and E.O. 13891, 84 FR 55235.

Mary B. Neumayr,

Chairman.

[FR Doc. 2020–28879 Filed 1–7–21; 8:45 am]

BILLING CODE 3125–F1–P

[1] 84 FR 55235 (Oct. 15, 2019).

[2] E.O. 13891 defines ''guidance document'' as ''an agency statement of general applicability, intended to have future effect on the behavior of regulated parties, that sets forth a policy on a statutory, regulatory, or technical issue, or an interpretation of a statute or regulation. . . .'' *Id.*

[3] OMB issued its guidance memorandum on October 31, 2019. *See* M–20–02, Guidance Implementing Executive Order 13891, Titled ''Promoting the Rule of Law Through Improved Agency Guidance Documents'' (Oct. 31, 2019), *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*.

[4] CEQ's website portal at *https://www.whitehouse.gov/ceq/resources/* includes links to CEQ guidance documents and resources, some of which are provided on nepa.gov (*https://www.energy.gov/nepa/ceq-guidance-documents*) and sustainability.gov (*https://www.sustainability.gov/resources.html*).

DEPARTMENT OF EDUCATION

[Docket No. ED–2020–SCC–0167]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before February 8, 2021.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Find this information collection request by selecting ''Department of Education'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox. Comments may also be sent to *ICDocketmgr@ed.gov*.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, (202) 377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note

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PART 220—[REMOVED]

■ Accordingly, for the reasons stated in the preamble and under the authority of 5 U.S.C. 301, the Corps removes 33 CFR part 220.

R.D. James,

Assistant Secretary of the Army (Civil Works).

[FR Doc. 2020–27908 Filed 1–7–21; 8:45 am]

BILLING CODE 3720–58–P

COUNCIL ON ENVIRONMENTAL QUALITY

40 CFR Part 1519

RIN 0331–AA04

Guidance Document Procedures

AGENCY: Council on Environmental Quality.

ACTION: Final rule.

SUMMARY: Pursuant to Executive Order (E.O.) 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' this final rule establishes the process that the Council on Environmental Quality (CEQ) will follow for issuing guidance documents. E.O. 13891 requires Federal agencies to finalize regulations or amend existing regulations to establish processes and procedures for issuing guidance documents.

DATES: This rule is effective January 8, 2021.

FOR FURTHER INFORMATION CONTACT: Amy B. Coyle, Deputy General Counsel, Council on Environmental Quality, 730 Jackson Place NW, Washington, DC 20503, (202) 395–5750, *amy.b.coyle@ceq.eop.gov*.

SUPPLEMENTARY INFORMATION:

On October 9, 2019, President Trump issued E.O. 13891,[1] which addresses the development, use, and public availability of agency guidance documents. It requires agencies to promulgate or update existing regulations setting forth their procedures for issuing guidance documents. In accordance with section 6 of E.O. 13891, on October 31, 2019, the Office of Management and Budget (OMB) issued memorandum M–20–02, ''Guidance Implementing Executive Order 13891, Titled 'Promoting the Rule of Law Through Improved Agency Guidance Documents' '' (OMB M–20–02)[2] to provide guidance and implement the Executive order. OMB M–20–02 provides agencies with additional instruction on how to implement E.O. 13891, including the required rulemaking.

I. Summary of Final Rule

In this final rule, CEQ adds a new part 1519 to the Code of Federal Regulations to set out its procedures for the development and issuance of guidance documents consistent with the direction and reflecting the policies described in E.O. 13891 and OMB M–20–02.

A. Section 1519.1, ''Purpose''

Section 1519.1, ''Purpose,'' states that the purpose of part 1519 is to implement E.O. 13891, and explains CEQ's process for developing and issuing guidance.

B. Section 1519.2, ''Guidance Document Procedures''

Section 1519.2, ''Guidance document procedures,'' defines ''guidance documents'' in paragraph (a) and describes documents that do not meet that definition in paragraph (b), consistent with section 2(b)[3] of the E.O. and Q2 of OMB M–20–02.

Paragraph (c) of § 1519.2 lists the minimum requirements for any document meeting the definition of a guidance document consistent with Q22 of OMB M–20–02, including a title, unique identification number, date, indication of whether it revises or replaces prior guidance, summaries, and legal citations. Additionally, consistent with section 4(i) of E.O. 13891, paragraph (c)(6) includes a requirement that each guidance document clearly state that it does not bind the public, except as authorized by law or as incorporated into a contract.

Paragraph (c)(11) of § 1519.2 specifies that any guidance document must be posted on CEQ's website. E.O. 13891 also directed Federal agencies to make guidance documents publicly available in an indexed, searchable database online. As described in the **Federal Register** notice published today, CEQ has complied with this requirement through its website *whitehouse.gov/ceq/resources*.[4] As noted on this website, CEQ may not cite, use, or rely on any guidance that is not posted on its web pages except to establish historical facts. CEQ also makes clear that CEQ's guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract.

Finally, paragraph (d) of § 1519.2 requires the CEQ Office of the General Counsel to review and clear all guidance documents before CEQ issues them.

C. Section 1519.3, ''Procedures for the Public To Request Withdrawal or Modification of a Guidance Document''

Consistent with section 4(ii) of E.O. 13891, § 1519.3, ''Procedures for the public to request withdrawal or modification of a guidance document,'' addresses the process for members of the public to petition CEQ to withdraw or modify a particular guidance document, including designation of the Office of the General Counsel as the office within CEQ to which the public should direct such petitions. CEQ intends to provide additional instructions on its guidance website, including appropriate contact information and format of the petitions.

D. Section 1519.4, ''Significant Guidance Documents''

Finally, § 1519.4, ''Significant guidance documents,'' addresses specific requirements for a subset of ''guidance documents'' that are ''significant guidance documents'' as defined by section 2(c) of E.O. 13891. Paragraph (a) sets forth that definition. OMB's Office of Information and Regulatory Affairs (OIRA) makes the final determination of whether a guidance document is significant. If OIRA makes such a determination for a particular guidance document, this section will also apply. Consistent with section 4(iii) of E.O. 13891, paragraph (b) sets forth procedural requirements, including public notice and comment for at least 30 days, unless an exception applies; public response to major concerns raised in comments; approval on a non-delegable basis by the Chairman, or an official acting as Chairman; review by OIRA under Executive Order 12866; and compliance with the applicable requirements for regulations or rules.

II. Rulemaking Analyses and Notices

A. Regulatory Procedures

Under the Administrative Procedure Act, an agency may waive notice and comment procedures if an action is an interpretative rule, a general statement of policy, or a rule of agency organization, procedure, or practice. *See* 5 U.S.C. 553(b)(A). This rule describes the internal process that CEQ will follow to comply with the requirements specified in E.O. 13891 when issuing guidance documents as defined by the

[1] 84 FR 55235 (Oct. 15, 2019).

[2] OMB M–20–02 is available at *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*.

[3] E.O. 13891 section 2(b) lists the following as exclusions to the definition of guidance document. 84 FR at 55235–36.

[4] CEQ's website, *whitehouse.gov/ceq/resources*, includes links to CEQ guidance documents and resources, some of which are provided on *nepa.gov* and *sustainability.gov*.

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E.O. Because this rule is one of agency organization, procedure, or practice, it is exempt from the requirement to provide prior notice and opportunity for public comment.

B. Regulatory Planning and Review (E.O. 12866 and E.O. 13563)

E.O. 12866 provides that OIRA will review all significant rules. E.O. 13563 reaffirms the principles of E.O. 12866, calling for improvements in the Federal government's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory objectives. OMB determined that this final rule does not meet the requirements for a significant regulatory action under E.O. 12866, as supplemented by E.O. 13563, and therefore it was not subject to review.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, as amended (RFA), 5 U.S.C. 601 *et seq.,* and E.O. 13272 do not apply to this rulemaking because it is not subject to the notice and comment requirements of 5 U.S.C. 553(b).

D. Unfunded Mandates Reform Act

A statement containing the information required by the Unfunded Mandates Reform Act, 2 U.S.C. 1531 *et seq.,* is not required. This rule will not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year, and it will not have a significant or unique effect on State, local, or Tribal governments, or the private sector.

E. Reducing Regulation and Controlling Regulatory Costs (E.O. 13771)

This rule is not an E.O. 13771 regulatory action because this rule is not significant under E.O. 12866.

F. Federalism (E.O. 13132)

Under the criteria in section 1 of E.O. 13132, this rule will not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement because it will not substantially and directly affect the relationship between the Federal and State governments.

G. National Environmental Policy Act

The purpose of this rulemaking is to formalize the CEQ's administrative procedures for issuing guidance documents, as required by E.O. 13891. CEQ has determined that the final rule is a non-major Federal action under the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.,* and would not have any effect on the environment because it merely outlines internal CEQ administrative procedures and does not authorize any activity or commit resources to a project that may affect the environment.

H. Paperwork Reduction Act

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This rule will not impose recordkeeping or reporting requirements on State, local, or Tribal governments, individuals, businesses, or organizations.

List of Subjects in 40 CFR Part 1519

Administrative practice and procedure, Guidance.

Mary B. Neumayr,
Chairman.

■ For the reasons stated in the preamble, the Council on Environmental Quality adds 40 CFR part 1519 as follows:

PART 1519—GUIDANCE DOCUMENTS

Sec.
1519.1 Purpose.
1519.2 Guidance document procedures.
1519.3 Procedures for the public to request withdrawal or modification of a guidance document.
1519.4 Significant guidance documents.

Authority: 42 U.S.C. 4321–4347; 42 U.S.C. 4371–4375; and E.O. 13891, 84 FR 55235.

§ 1519.1 Purpose.

(a) This part implements Executive Order 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' and reflects the policies described in that order. The provisions in this part address the Council on Environmental Quality's procedures for the development and issuance of agency guidance documents. This part explains what constitutes guidance documents, and sets forth the minimum requirements for guidance documents, the procedures to request withdrawal or modification of guidance documents, and the additional requirements and procedures for significant guidance documents.

(b) This part is intended to improve the internal management of the Council on Environmental Quality. It is not intended to and does not create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its agencies or other entities, its officers or employees, or any other person.

(c) If Executive Order 13891 or any provision thereof is rescinded or superseded, this part remains in effect.

§ 1519.2 Guidance document procedures.

(a) *Definition of guidance documents.* For purposes of this part, guidance documents are agency statements of general applicability, intended to have future effect on the behavior of regulated parties, that set forth a policy on a statutory, regulatory, or technical issue, or an interpretation of a statute or regulation.

(b) *Documents excluded from the definition of guidance documents.* Guidance documents do not include:

(1) Agency statements of specific, rather than general, applicability.

(2) Agency statements that do not set forth a policy on a statutory, regulatory, or technical issue or an interpretation of a statute or regulation.

(3) Legislative rules promulgated under 5 U.S.C. 553 (or similar statutory provisions), or exempt from rulemaking requirements under 5 U.S.C. 553(a).

(4) Rules of agency organization, procedure, or practice that are not anticipated to have substantial future effect on the behavior of regulated parties or the public.

(5) Decisions of agency adjudication.

(6) Documents or agency statements that are directed solely to the Council on Environmental Quality or other agencies (or personnel of such agencies) that are not anticipated to have substantial future effect on the behavior of regulated parties or the public.

(7) Legal briefs and other court filings.

(8) Legal advice or opinions from the Council on Environmental Quality's Office of the General Counsel.

(9) Categories of guidance documents made exempt from Executive Order 13891 by the Administrator of the Office of Management and Budget's Office of Information and Regulatory Affairs through memoranda issued pursuant to section 4(b) of Executive Order 13891.

(c) *Elements of guidance documents.* In general, each guidance document must:

(1) Provide the title of the guidance document;

(2) Provide a unique document identification number;

(3) Identify the Council on Environmental Quality and any office, as appropriate, issuing the guidance document;

(4) Include the date of issuance;

(5) Include the term ''guidance'';

(6) Include a disclaimer clarifying that it does not have the force and effect of law; is not meant to bind the public in any way; and is intended only to provide clarity to the public regarding

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existing requirements under the law or agency policies. When a guidance document is binding because the law authorizes binding guidance or because a contract incorporates the guidance, the Council on Environmental Quality must modify the disclaimer to reflect accordingly;

(7) If it is a revision to or a replacement of a previously issued guidance document, identify the guidance document that it revises or replaces;

(8) Include a short summary of the subject matter covered in the guidance document at the top of the document;

(9) Identify the activities to which and the persons to whom the guidance document applies;

(10) Include the citation to the statutory provision or regulation to which the guidance document applies or which it interprets; and

(11) Be posted on the Council on Environmental Quality's website.

(d) *Review and clearance.* The Office of the General Counsel must review and clear all proposed guidance documents before issuance.

§ 1519.3 Procedures for the public to request withdrawal or modification of a guidance document.

(a) Any member of the public may petition the Council on Environmental Quality to withdraw or modify a guidance document.

(b) The petitioner must submit the request for the withdrawal or modification of a guidance document in writing to the Office of the General Counsel. The petition must contain a statement of the reasons for the petition and any supporting documents to support the petitioner's request.

(c) Upon receipt of a petition for withdrawal or modification of a guidance document, the Office of the General Counsel will consult with the relevant offices and coordinate the response to the petition.

(d) The Council on Environmental Quality should respond to a petition in writing, including electronically, within 90 days of receipt of a petition. The response should state whether the petition is granted, granted in part and denied in part, denied, or provisionally denied for lack of adequate information. If the petition is provisionally denied for lack of adequate information, the response should indicate what additional information is necessary to adjudicate the petition. The Office of the General Counsel should respond to the petition in writing no later than 90 days after receipt of the necessary additional information. The response should state whether the petition is granted, granted in part and denied in part, or denied.

(e) The Council on Environmental Quality may consider in a coordinated manner or provide a coordinated response to similar petitions for withdrawal or modification.

(f) The Council on Environmental Quality need not respond to petitions under this part for withdrawal or modification of documents that do not meet the definition of a guidance document.

§ 1519.4 Significant guidance documents.

(a) *Significant guidance documents definition.* For the purposes of this section, significant guidance documents are guidance documents that may be reasonably anticipated to:

(1) Lead to an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles of Executive Order 12866.

(b) *Actions the Council on Environmental Quality will take before issuing significant guidance documents.* When the Office of Management and Budget's Office of Information and Regulatory Affairs determines that a guidance document is a significant guidance document, the Council on Environmental Quality must:

(1) Submit the guidance document for review by the Office of Information and Regulatory Affairs under Executive Order 12866;

(2) Publish the draft significant guidance document in the **Federal Register** for a public notice and comment period of at least 30 days;

(i) This provision will not apply if the Council on Environmental Quality for good cause finds that notice and public comment is impracticable, unnecessary, or contrary to the public interest.

(ii) If such a finding is made, the Council on Environmental Quality must incorporate such a finding and a brief statement of its reasoning into the significant guidance document.

(3) Obtain approval on a non-delegable basis from the Chairman or an official who is serving in an acting capacity as the Chairman.

(4) Provide a public response to major concerns raised in comments on the draft significant guidance document.

(5) Announce the availability of the final significant guidance document.

(6) Comply with the applicable requirements for regulations or rules, including significant regulatory actions, set forth in Executive Orders 12866, ''Regulatory Planning and Review,'' 13563, ''Improving Regulation and Regulatory Review,'' 13609, ''Promoting International Regulatory Cooperation,'' 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' and 13777, ''Enforcing the Regulatory Reform Agenda.''

(c) *Exemption.* This section will not apply if the Chairman or an official who is serving in an acting capacity as the Chairman of the Council on Environmental Quality and the Administrator of the Office of Information and Regulatory Affairs agree that exigency, safety, health, or other compelling cause warrants an exemption from some or all requirements.

[FR Doc. 2020–28881 Filed 1–7–21; 8:45 am]

BILLING CODE 3225–F1–P

FEDERAL PERMITTING IMPROVEMENT STEERING COUNCIL

40 CFR Chapter IX

[Agency Docket Number 2020–001]

RIN 3121–AA01

Adding Mining as a Sector of Projects Eligible for Coverage Under Title 41 of the Fixing America's Surface Transportation Act

AGENCY: Federal Permitting Improvement Steering Council.

ACTION: Final rule.

SUMMARY: The Federal Permitting Improvement Steering Council (Permitting Council) has voted to add mining as a sector with infrastructure projects eligible for coverage under Title 41 of the Fixing America's Surface Transportation Act (FAST–41). A new part will be included in the Code of Federal Regulations that adds mining to the list of statutory FAST–41 sectors. The addition of mining as a FAST–41 sector will allow qualified mining infrastructure projects to become FAST–41 covered projects. FAST–41 coverage will help Federal agencies coordinate their environmental and project review efforts to improve the timeliness, efficiency, predictability, and transparency of the decision-making processes associated with covered

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Rules and Regulations

Federal Register
Vol. 86, No. 3
Wednesday, January 6, 2021

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 760

[Docket ID: FSA–2020–0011]

RIN 0560–AI55

Agricultural Disaster Indemnity Programs

AGENCY: Farm Service Agency (FSA), Department of Agriculture (USDA).

ACTION: Final rule.

SUMMARY: This rule establishes the Quality Loss Adjustment (QLA) Program to provide assistance to producers who suffered eligible crop quality losses due to hurricanes, excessive moisture, floods, drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. It also amends the provisions for the Wildfire and Hurricane Indemnity Program Plus (WHIP+) to be consistent with the Further Consolidated Appropriations Act, 2020, by adding excessive moisture and drought occurring in 2018 and 2019 as qualifying disaster events and clarifying eligibility of sugar beets. The changes to WHIP+ were self-enacting and were previously implemented by FSA.

DATES:

Effective date: January 6, 2021.

Comment due date: Comments are due by March 8, 2021.

ADDRESSES: We invite you to submit comments on this rule. You may submit comments by either of the following methods, although FSA prefers that you submit comments electronically through the Federal eRulemaking Portal:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and search for Docket ID FSA–2020–0011. Follow the instructions for submitting comments.
- *Mail:* Director, SND, FSA, U.S. Department of Agriculture, 1400 Independence Avenue SW, Stop 0522, Washington, DC 20250–0522. In your comment, specify the docket ID FSA–2020–0011.

Comments will be available for viewing online at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Kimberly Graham at (202) 720–6825 (voice); or by email at: *kimberly.graham@usda.gov*. Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice).

SUPPLEMENTARY INFORMATION:

Background

The Additional Supplemental Appropriations for Disaster Relief Act, 2019 (''Disaster Relief Act,'' Pub. L. 116–20) provided disaster assistance for necessary expenses related to losses of crops (including milk, on-farm stored commodities, crops prevented from planting in 2019, and harvested adulterated wine grapes), trees, bushes, and vines, as a consequence of hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. The Further Consolidated Appropriations Act, 2020 (Pub. L. 116–94), makes several changes to the provisions of the Disaster Relief Act, including:

- Specifying that assistance would be provided for crop quality losses;
- Adding excessive moisture as a qualifying disaster event;
- Adding drought as a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year; and
- Providing that sugar beet losses in 2018 and 2019 would be paid through cooperative processors (to be paid to producer members as determined by such processors).

This rule implements those provisions of the Further Consolidated Appropriations Act, 2020, by establishing the QLA Program to provide assistance for crop quality losses and amending the WHIP+ regulations to be consistent with the changes to qualifying disaster events and eligibility of sugar beet losses.

QLA Program

This rule establishes the QLA Program to provide disaster assistance for crop quality losses that were a consequence of hurricanes, excessive moisture, floods, qualifying drought, tornadoes, typhoons, volcanic activity, snowstorms, or wildfires occurring in calendar years 2018 and 2019. Eligible crops generally include crops for which FCIC crop insurance coverage or Noninsured Crop Disaster Assistance Program (NAP) coverage is available; however, value loss crops,[1] honey, and maple sap are not eligible. The QLA Program provides assistance for losses to crops that were sold or fed to livestock or are in storage; crops that were destroyed are not eligible. Assistance will be based on a producer's harvested affected production of an eligible crop that had a quality loss due to a qualifying disaster event and had at least a 5 percent quality loss due to all eligible disaster events.

Qualifying disaster events include hurricanes, floods, tornados, typhoons, volcanic activity, snowstorms, wildfires, excessive moisture, qualifying drought, and related conditions that occurred in the 2018 or 2019 calendar year. Assistance is available for eligible producers in counties that received a qualifying Presidential Emergency Disaster Declaration (declaration) or Secretarial Disaster Designation (designation) due to one or more of the qualifying disaster events or a related condition. As required by the Further Consolidated Appropriations Act, 2020, drought is only a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year (referred to as ''qualifying drought'' in this rule). Only producers in those counties that received a disaster declaration or designation qualify for the QLA Program based on the declaration or designation. Producers in counties that did not receive a qualifying declaration or designation may still apply; however, they must also provide supporting documentation to establish that the crop was directly affected by a qualifying disaster event and suffered the same

[1] Value loss crops include aquaculture, floriculture, mushrooms, ginseng root, ornamental nursery, sea grass and sea oats, Christmas trees, and turfgrass sod.

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minimum loss as required by a crop in a disaster declared or designated county. Lists of counties with Presidential Emergency Disaster Declarations and Secretarial Disaster Designations for all qualifying disaster events for 2018 and 2019 are available at *farmers.gov/quality-loss.*

FSA recognizes that a crop may suffer quality losses due to multiple disaster events in a single crop year, and the portion of a crop's quality loss that can be attributed to a specific disaster event may be difficult to determine. Therefore, while a qualifying disaster event must have caused at least a portion of the affected production's quality loss, FSA will consider the total quality loss caused by all eligible disaster events for eligibility and payment calculation purposes. Eligible disaster events for the QLA Program include those listed for NAP in 7 CFR 1437.10, except that the QLA Program does not cover losses due to insect infestation.

The QLA Program does not cover losses due to disaster events occurring after a crop was harvested or due to crop deterioration while in storage. Quality losses that could have been mitigated using good farming practices are not eligible. For example, if a producer's corn crop received a quality discount due to high moisture content, the producer could have mitigated that quality loss by using best practices for drying and storing the crop; therefore, that producer's quality loss due to high moisture is not eligible. The QLA Program does not provide assistance for losses that cannot be determined to have occurred or for losses for which a notice of loss was previously disapproved by FSA, RMA, or an approved insurance provider selling and servicing Federal crop insurance policies unless that notice of loss was disapproved solely because it was filed after the applicable deadline.

The QLA Program does not provide assistance for certain quality losses that were already compensated under a Federal crop insurance plan, NAP, or WHIP+. This includes losses to affected production of:

- Multiple market crops already compensated under crop insurance or WHIP+;
- Crops for which production used to calculate a crop insurance indemnity or WHIP+ payment was adjusted based on a comparison of the producer's sale price to the FCIC established price;
- Crops that received a crop insurance indemnity, NAP payment, or WHIP+ payment based on the quantity of production that was considered unmarketable; and
- Crops for which production was reported as salvage value or secondary use.

The QLA Program also excludes quality losses to sugar beets that were compensated through cooperative agreements with cooperative processors.

Affected production of a subsequent crop grown on double cropped acreage is only eligible if the crop has been approved as an eligible double cropping practice by the FSA State committee.

Application

FSA will accept QLA Program applications from January 6, 2021, through March 5, 2021. To apply, producers must submit a completed QLA Program application either in person, by mail, email, or facsimile to an FSA county office. To be eligible, a producer must submit a complete application, which includes all of the following:

- FSA–898, Quality Loss Adjustment (QLA) Program Application;
- FSA–899, Historical Nutritional Value Weighted Average Worksheet (only for forage crops with verifiable documentation of historical nutrient factors from the 3 preceding crop years);
- FSA–578, Report of Acreage;
- FSA–895, Crop Insurance and/or NAP Coverage Agreement; and
- Required documentation, as discussed below.

The FSA–578, FSA–895, and FSA–899 forms, and other required documentation must be submitted to the producer's county office by March 19, 2021.

If not already on file with FSA, producers must also submit the following eligibility forms for each crop year within 60 days of the date the producer signs the application:

- AD–1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification;
- CCC–902, Farm Operating Plan for Payment Eligibility;
- CCC–941 Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information; and
- CCC–942 Certification of Income from Farming, Ranching and Forestry Operations, if applicable.

Payments will not be made until all necessary eligibility documentation is received. Failure of an applicant to submit documentation timely may result in FSA not issuing a payment or, in the case of legal entities, a reduced payment if the required documentation for one or more members of the entity is not submitted timely.

Required Documentation

To support their applications, producers must submit documentation showing the quality loss and quantity of affected production by March 19, 2021. Documentation of the quality loss (total dollar value loss, grading factors, and nutrient factors, as applicable), must be verifiable. Verifiable documentation is documentation that can be verified by FSA through an independent source; FSA may verify the submitted records with records on file at the warehouse, gin, laboratory, or other entity that received or tested the reported production. Examples of acceptable, verifiable documentation include warehouse grading sheets, settlement sheets, sales receipts, and laboratory test results. Except for grain crops that have been sold, the documentation must be from laboratory tests or analysis completed within 30 days of harvest to be considered acceptable, unless the FSA county committee determines that the record is representative of the condition of the affected production within 30 days of harvest. For grain crops that were sold, the verifiable documentation can be from any time from harvest through the time of sale, unless the FSA county committee determines the record is not representative of the condition within 30 days of harvest. Producers who do not have acceptable, verifiable documentation are ineligible for the QLA Program.

For forage crops, all producers must submit verifiable documentation showing the nutrient factors for the affected production of the crop. Producers must also submit verifiable documentation of the historical nutrient factors for the 3 preceding crop years if available. The type of nutrient factors (such as relative feed value or total digestible nutrients) that must be documented for a particular crop will be determined by the FSA county committee based on the standard practice for the crop in that county. For all crops other than forage crops, producers must submit verifiable documentation of the total dollar value loss due to quality, if available, and verifiable documentation of grading factors due to quality.

Documentation to support the quantity of affected production included on the application must be verifiable for non-forage crops that receive a QLA payment based on the producer's total dollar value loss. For all other crops (non-forage crops without a producer's total dollar value loss and all forage crops), records to support the quantity of affected production must be reliable. Reliable production records means evidence provided by the participant that is used to substantiate the amount of production reported when verifiable

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records are not available, including copies of receipts, ledgers of income, income statements of deposit slips, register tapes, invoices for custom harvesting, and records to verify production costs, contemporaneous measurements, truck scale tickets, and contemporaneous diaries that are determined acceptable by the FSA county committee. To determine whether the records are acceptable, the FSA county committee will consider whether they are consistent with the records of other producers of the crop in that area.

Payment Calculation

QLA Program payments will be calculated using different formulas based on the type of crop (forage or non-forage) and based on the type of documentation submitted. All QLA payments, regardless of whether they are forage or non-forage, and the type of documentation submitted, will be calculated using a 70 percent payment factor. Payments calculated based on a county average loss, as described below, will be subject to an additional payment factor of 50 percent.

For forage crops with verifiable documentation of both the nutrient factors for the affected production and historical nutrient factors for the 3 preceding crop years, payment will be equal to the amount of the producer's total affected production multiplied by the producer's verifiable percentage of loss, multiplied by the average market price determined by FSA, multiplied by 70 percent. The producer's verifiable percentage of loss is determined by comparing the nutrient factor test results for the affected production to the average from the 3 preceding crop years, as documented on the FSA–899, Historical Nutritional Value Weighted Average Worksheet. The average market price for the QLA Program is the price used for NAP established according to 7 CFR 1437.12.

For forage crops with verifiable documentation of nutrient factors for the affected production but without historical nutrient factors for the 3 preceding crop years, the payment will be equal to the amount of the producer's total affected production multiplied by the county average percentage of loss, multiplied by the average market price determined by FSA, multiplied by 70 percent, multiplied by 50 percent.

For affected production of non-forage crops with verifiable documentation of the total dollar value loss due to quality, the QLA Program payment is equal to the producer's total dollar value loss on the affected production of the crop, multiplied by a payment factor of 70 percent.

For non-forage crops without verifiable documentation of a total dollar value loss but with verifiable documentation of grading factors due to quality, the payment will be equal to the amount of producer's affected production multiplied by the county average loss per unit of measure, multiplied by 70 percent, multiplied by 50 percent.

To determine the county average percentage of loss (for forage crops) or the county average loss per unit of measure (for non-forage crops), FSA will calculate the average loss for a crop based on losses of producers applying with verifiable documentation of historical nutritional factors (for forage crops) or the total dollar value loss (for non-forage crops) if at least 5 eligible producers submitted that documentation in the county. If less than 5 eligible producers in a county submit verifiable documentation of their historical nutritional factors or their total dollar value loss, FSA will determine a county average percentage of loss or county average loss per unit of measure based on the best available data, including losses of other QLA Program participants in contiguous counties. If sufficient data is still not available after considering other sources, FSA may determine that a county average cannot be calculated and producers in that county applying for payment under the applicable calculation are ineligible.

Payments for the QLA Program will not be issued until the application period has ended in order to allow FSA to determine the county average losses, as well as the total payments requested under the QLA Program. The Further Consolidated Appropriations Act, 2020 provides funding for the QLA Program to be available until December 31, 2021, in an amount equal to the remaining funds provided under the Bipartisan Budget Act of 2018 (Pub. L. 115–123) for losses due to Hurricanes Harvey, Irma, Maria, and other hurricanes and wildfires occurring in calendar year 2017,[2] and remaining funds provided under the Disaster Relief Act for losses due to Hurricanes Michael and Florence, other hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.[3] If the total amount of calculated QLA Program payments exceeds the amount of funding available, FSA will prorate all payments by a national factor.

A person or legal entity, other than a joint venture or general partnership, is eligible to receive, directly or indirectly, up to $125,000 per crop year in QLA Program payments. FSA will use the notification of interest provisions in 7 CFR 1400.107 and payment attribution provisions in 7 CFR 1400.105 for attributing and limiting payments to persons and legal entities. FSA will also use provisions in 7 CFR 1400.104 when changes in a farming operation result in an increase in persons to which payment limitation applies. Payments made to a joint operation (including a general partnership or joint venture) cannot exceed $250,000 per person or legal entity that comprise the ownership of the joint operation. Payments made to a legal entity will be reduced proportionately by an amount that represents the direct or indirect ownership in the legal entity by any person or legal entity that has otherwise reached the maximum payment limitation. These rules for attributing and limiting payments are consistent with the programs FSA administers on behalf of the Commodity Credit Corporation.

A person or legal entity, other than a joint venture or general partnership, is ineligible for a 2018, 2019, or 2020 payment if the person's or legal entity's average adjusted gross income (AGI) is more than $900,000, unless at least 75 percent of that person's or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. The average AGI for each of the program years 2018, 2019, or 2020, is determined using the average of the adjusted gross incomes for the 3 taxable years preceding the most immediately preceding taxable year. For example, for the 2019 program year, the producer's AGI would be based on the 2015, 2016, and 2017 tax years. If at least 75 percent of the person's or legal entity's AGI is derived from farming, ranching, or forestry-related activities and the participant provides the required certification and documentation, the person or legal entity is eligible to

[2] FSA provided assistance for losses due to Hurricanes Harvey, Irma, Maria, and other hurricanes and wildfires occurring in calendar year 2017 through the 2017 Wildfires and Hurricanes Indemnity Program (2017 WHIP) (final rule published July 18, 2018, 83 FR 33795–33809) and the Florida Citrus Recovery Grant Program.

[3] FSA has previously provided assistance for losses due to Hurricanes Michael and Florence, other hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019 through the Wildfires and Hurricanes Indemnity Program Plus (WHIP+), On-Farm Storage Loss Program, and Milk Loss Program (final rule published September 13, 2019, 84 FR 48518–48537), as well as through several grants and cooperative agreements with sugar beet cooperatives.

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receive QLA Program payments up to the applicable payment limitation noted above. With respect to joint ventures and general partnerships, this AGI provision will be applied to each member of the joint venture and general partnership.

Requirement to Purchase Crop Insurance or NAP Coverage

The Disaster Relief Act requires all participants who receive QLA Program payments to purchase crop insurance or NAP coverage for the next 2 available crop years. The latest year for meeting compliance with this provision will be the 2023 crop year. In other words, if the 2 consecutive years of coverage are not met by 2023 coverage year, the participant is ineligible for and must refund QLP Program payments. Participants must obtain crop insurance or NAP, as may be applicable, at the 60 percent coverage level or higher. In situations where crop insurance is unavailable for a crop, the Disaster Relief Act requires that a QLA Program participant obtain NAP coverage. Section 1001D of the Food Security Act of 1985 (1985 Farm Bill) provides that a person or entity with AGI in amount greater than $900,000 is not eligible to participate in NAP; however, producers with an AGI greater than $900,000 may be eligible for the QLA Program if at least 75 percent of that person's or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. Accordingly, in order to reconcile this restriction in the 1985 Farm Bill and the Disaster Relief Act's requirement to obtain NAP or crop insurance coverage, QLA Program participants may meet the Disaster Relief Act's purchase requirement by purchasing Whole-Farm Revenue Protection crop insurance coverage, if eligible, or they may pay the applicable NAP service fee and premium for the 60 percent coverage level despite their ineligibility for a NAP payment. In other words, the service fee and premium must be paid even though no NAP payment may be made because the AGI of the person or entity exceeds the 1985 Farm Bill limitation.

The crop insurance and NAP coverage requirements are specific to the crop and county (county where the crop is physically located for insurance and administrative county for NAP) for which QLA Program payments are paid. This means that a producer is required to purchase crop insurance or NAP coverage for the crop in the county for which the producer was issued a QLA Program payment. Producers who receive a payment on a crop in a county and who have the crop or crop acreage in subsequent years, as provided in this rule, and who fail to obtain the 2 years of crop insurance or NAP coverage must refund all QLA Program payments for that crop in that county with interest from the date of disbursement. This is a condition of payment eligibility specified by Disaster Relief Act and is therefore not subject to partial payment eligibility or other types of equitable relief. Producers who were paid under the QLA Program for a crop in a county but do not plant that crop in a subsequent year are not subject to the crop insurance or NAP purchase requirement. WHIP+ participants who already met the requirement to purchase crop insurance or NAP coverage as specified in 7 CFR 760.1517 are considered to have also met the requirement to purchase crop insurance or NAP coverage for QLA Program purposes, and they are not required to obtain additional years of crop insurance or NAP coverage as a result of also receiving a QLA Program payment for that crop.

Applicable general eligibility requirements, including recordkeeping requirements and required compliance with HELC and Wetland Conservation provisions, are similar to those for the previous ad hoc crop disaster programs and current permanent disaster programs. All information provided to FSA for program eligibility and payment calculation purposes, including production records, is subject to spot check.

WHIP+

FSA, on behalf of the Secretary of Agriculture, previously implemented provisions of the Disaster Relief Act by establishing WHIP+ through a final rule published on September 19, 2019 (84 FR 48518–48537). The Disaster Relief Act provided assistance for losses of crops, trees, bushes, and vines, as a consequence of hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. WHIP+ covers only production losses of crops except in specific circumstances discussed previously in this document when the producer may have also been compensated for quality losses.

This rule amends 7 CFR 760.1500(c) and the definition of ''qualifying disaster event'' in § 760.1502 to include excessive moisture and qualifying drought. As under the QLA Program, drought is only considered a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year. This rule adds definitions of ''qualifying drought'' and ''U.S. Drought Monitor'' in § 760.1502.

The addition of these qualifying disaster events for WHIP+ was self-enacting as the text in the law clearly specified the required changes without need for interpretation; therefore, FSA began the sign-up period for losses due to excessive moisture and qualifying drought on March 23, 2020, and sign-up ended on October 30, 2020. Producers applying for WHIP+ assistance for losses due to excessive moisture or qualifying drought were required to meet all requirements in 7 CFR part 760, subpart O, including the requirement to purchase crop insurance for 2 years as specified in § 760.1517.

The Further Consolidated Appropriations Act, 2020 also directed the Secretary to pay sugar beet losses in 2018 and 2019 through cooperative processors. FSA has established cooperative agreements with sugar beet processors; those processors will be responsible for distributing assistance to their members. This rule amends the eligibility provisions in § 760.1517 to specify that members of cooperatives are not eligible for a WHIP+ payment for sugar beet losses.

FSA is also updating § 760.1510(a) to reflect the application deadline of October 30, 2020, and correcting references in §§ 760.1508(c) and (f) and 760.1511(a)(6).

Notice and Comment and Effective Date

The Administrative Procedure Act (5 U.S.C. 553) provides that the notice and comment and 30-day delay in the effective date provisions do not apply when the rule involves a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts. This rule involves programs for payments to certain agricultural commodity producers and therefore falls within that exemption. Due to the nature of the rule and the need to implement the regulations expeditiously to provide assistance to agricultural producers, FSA finds that notice and public procedure are contrary to the public interest. Therefore, even though this rule is a major rule for purposes of the Congressional Review Act, FSA is not required to delay the effective date for 60 days from the date of publication to allow for Congressional review. Therefore, this rule is effective upon publication in the **Federal Register**.

Executive Orders 12866, 13563, 13771 and 13777

Executive Order 12866, ''Regulatory Planning and Review,'' and Executive

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Order 13563, ''Improving Regulation and Regulatory Review,'' direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13777, ''Enforcing the Regulatory Reform Agenda,'' established a Federal policy to alleviate unnecessary regulatory burdens on the American people.

The Office of Management and Budget (OMB) designated this rule as economically significant under Executive Order 12866, and therefore, OMB has reviewed this rule. The costs and benefits of this rule are summarized below. The full cost benefit analysis is available on *regulations.gov.*

Executive Order 13771, titled Reducing Regulation and Controlling Regulatory Costs, was issued on January 30, 2017. The OMB guidance in M–17–21, dated April 5, 2017, specifies that ''transfers'' are not covered by Executive Order 13771 but that requirements imposed apart from transfers in transfer rules may qualify as costs or cost savings under Executive Order 13771, for example the information collection requirements in this rule. This rule is not subject to the requirements of E.O. 13771 because this rule results in no more than de minimis costs.

Cost Benefit Analysis Summary

WHIP+ initially provided approximately $3 billion in supplemental assistance to producers for qualifying agricultural production losses. In the Further Consolidated Appropriations Act, 2020, Congress changed provisions of the Disaster Relief Act as follows:

1. Extended eligibility under WHIP+ to also cover [4]—

a. Crop production losses due to excessive moisture in calendar years 2018 and 2019;

b. Crop production losses due to drought in calendar years 2018 and 2019 if the area within the county in which the loss occurred was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year;

2. Provided assistance for sugar beet losses in 2018 and 2019 to be paid through cooperative processors; [5] and

3. Authorized assistance for crop quality losses that occurred in calendar years 2018 and 2019 through the QLA Program (implemented by this rule).

Eligible crops under the QLA Program include crops for which Federal crop insurance or NAP coverage is available. To be eligible for the QLA Program, a crop must have suffered a quality loss due to a qualifying disaster event and had at least a 5 percent quality discount due to a combination of the qualifying disaster event and any other QLA-eligible causes of loss. Eligible crops may have been sold, fed on farm to livestock, or been in storage at the time of application.

USDA estimates the Further Consolidated Appropriations Act, 2020 will provide approximately $950 million for the continuation of disaster assistance program delivery, including payments to eligible producers for production losses due to excessive moisture and extreme drought under WHIP+ and for quality losses covered by the QLA Program. Of that amount, USDA anticipates that an estimated $500 million will be available for QLA Program payments. However, the amount of funding ultimately available for the QLA Program will not be known until other payments, for example for excessive moisture and drought under WHIP+, are finalized.

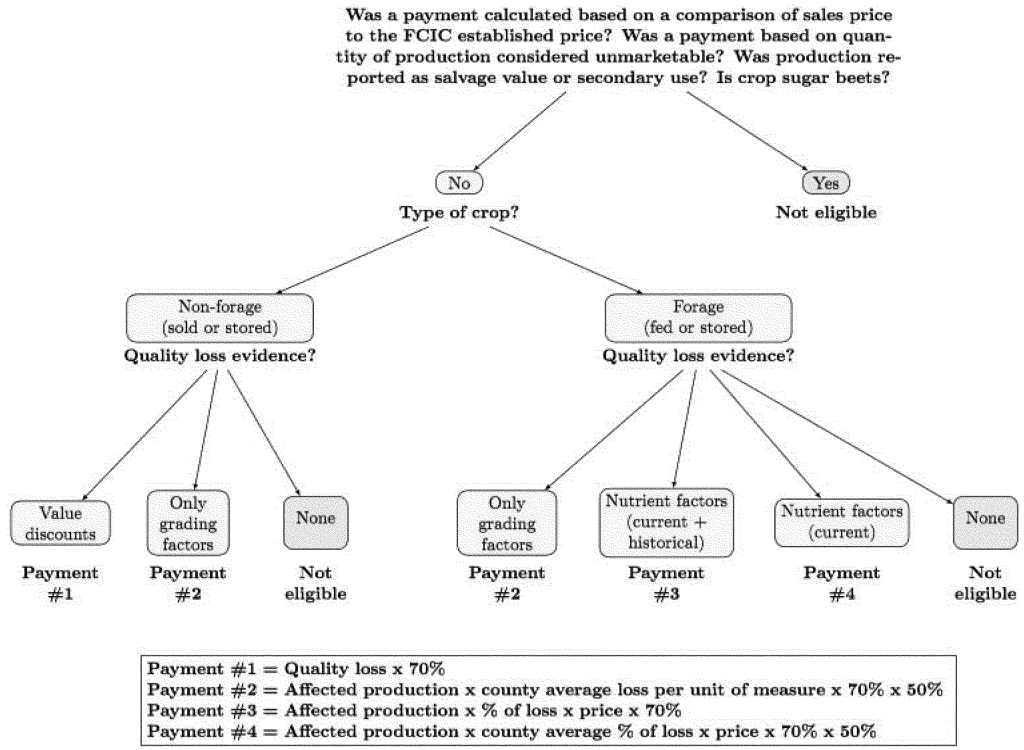
The QLA Program payment calculation depends on several factors, as shown in Figure 1. A producer is ineligible for a QLA Program payment if they received a crop insurance indemnity, NAP payment, or WHIP+ payment for a crop that was unmarketable, sold for salvage value or secondary use, or if the payment was based on a comparison of the sales price of the affected production and the applicable reference price. Otherwise, payments or benefits received under the Federal crop insurance, NAP or WHIP+ do not affect a producer's eligibility or payment received from the QLA Program. The payment calculation depends on the use of production (non-forage or forage) and evidence at hand of the crop quality loss. Producers who do not have evidence of the quality loss are ineligible.

[4] The addition of excessive moisture and certain drought conditions as qualifying causes of loss under WHIP+ is specific, not open to interpretation, and is therefore self-enacting. Accordingly, the provision was previously implemented. FSA began the sign-up period on March 23, 2020, and sign-up ended on October 30, 2020.

[5] Assistance for sugar beet losses for members of cooperative processors is provided through a separate program.

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Figure 1. Eligibility and Payment Calculation



Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA, Pub. L. 104–121), generally requires an agency to prepare a regulatory flexibility analysis of any rule whenever an agency is required by the Administrative Procedure Act or any other law to publish a proposed rule, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule is not subject to the Regulatory Flexibility Act because USDA is not required by Administrative Procedure Act or any law to publish a proposed rule for this rulemaking.

Environmental Review

The environmental impacts of this final rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and the FSA regulation for compliance with NEPA (7 CFR part 799). The legislative intent for implementing the QLA Program is to provide assistance to producers who suffered eligible crop quality losses due to hurricanes, excessive moisture, floods, drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.

While OMB has designated this rule as ''economically significant'' under Executive Order 12866, ''economic or social effects are not intended by themselves to require preparation of an environmental impact statement'' (see 40 CFR 1502.16(b)), when not interrelated to natural or physical environmental effects.

For this rule, the FSA Categorical Exclusions found in 7 CFR 799.31 apply, specifically 7 CFR 799.31(b)(6)(iii), (iv), and (vi) (that is, § 799.31(b)(6)(iii) Financial assistance to supplement income, manage the supply of agricultural commodities, or influence the cost or supply of such commodities or programs of a similar nature or intent (that is, price support programs); § 799.31(b)(6)(iv) Individual farm participation in FSA programs where no ground disturbance or change in land use occurs as a result of the proposed action or participation; and § 799.31(b)(6)(vi) Safety net programs administered by FSA). No Extraordinary Circumstances (7 CFR 799.33) exist.

For the outlined reasons, FSA has determined that the implementation of the QLA Program and the participation in the QLA Program does not constitute a major Federal action that would significantly affect the quality of the human environment, individually or cumulatively. Therefore, FSA will not prepare an environmental assessment or environmental impact statement for this regulatory action.

Executive Order 12372

Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' requires consultation with State and local officials that would be directly affect by proposed Federal financial assistance. The objectives of the Executive order are to foster an intergovernmental partnership and a strengthened federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance and direct Federal development. For reasons specified in the final rule related notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs and activities

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within this rule are excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, ''Civil Justice Reform.'' This rule will not preempt State or local laws, regulations, or policies unless they represent an irreconcilable conflict with this rule. The rule will not have retroactive effect. Before any judicial action may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR parts 11 and 780 must be exhausted.

Executive Order 13132

This rule has been reviewed under Executive Order 13132, ''Federalism.'' The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, except as required by law. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

The USDA's Office of Tribal Relations (OTR) has assessed the impact of this rule on Indian Tribes and determined that this rule may have significant Tribal implications that require ongoing adherence to Executive Order 13175. OTR notes that the programs are similar to programs that have been administered by FSA and RMA in the past; having not heard any concerns regarding the administration of these in the past, and the fact that provisions are mandated in the Disaster Relief Act, OTR recommended that consultation is not required at this time. Tribes can request consultation at any time. FSA will work with OTR to ensure meaningful consultation is provided where changes, additions, and modifications identified in this rule are not expressly mandated by law.

The Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104–4) requires Federal agencies to assess the effects of their regulatory actions on State local, and Tribal governments or the private sector. Agencies generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures of $100 million or more in any 1 year for State, local, or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates, as defined in Title II of UMRA, for State, local, and Tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, FSA submitted the QLA Program information collection request to OMB for emergency approval. OMB approved the 6-month emergency information collection.

E-Government Act Compliance

FSA is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Federal Assistance Programs

The titles and numbers of the Federal Domestic Assistance Program found in the Catalog of Federal Domestic Assistance to which this rule applies are:

10.129—Wildfire and Hurricanes Indemnity Program Plus
10.133—Quality Loss Adjustment Program

List of Subjects in 7 CFR Part 760

Dairy products, Indemnity payments, Reporting and recordkeeping requirements.

For the reasons discussed above, FSA amends 7 CFR part 760 as follows:

PART 760—INDEMNITY PAYMENT PROGRAMS

■ 1. Revise the authority citation for part 760 to read as follows:

Authority: 7 U.S.C. 4501 and 1531; 16 U.S.C. 3801, note; 19 U.S.C. 2497; Title III, Pub. L. 109–234, 120 Stat. 474; Title IX, Pub. L. 110–28, 121 Stat. 211; Sec. 748, Pub. L. 111–80, 123 Stat. 2131; Title I, Pub. L. 115–123, 132 Stat. 65; Title I, Pub. L. 116–20, 133 Stat. 871; and Division B, Title VII, Pub. L. 116–94, 133 Stat. 2658.

Subpart O—Agricultural Disaster Indemnity Programs

§ 760.1500 [Amended]

■ 2. In § 760.1500(c), remove the words ''and wildfires'' and add ''wildfires, excessive moisture, and qualifying drought'' in their place.

■ 3. Amend § 760.1502 as follows:

■ a. In the definition of ''Qualifying disaster event'', in paragraph (2) of remove the word ''wildfire'' and add ''wildfire, excessive moisture, qualifying drought'' in its place; and

■ b. Add the definitions of ''Qualifying drought'' and ''U.S. Drought Monitor'' in alphabetical order.

The additions read as follows:

§ 760.1502 Definitions.

* * * * *

Qualifying drought means an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year.

* * * * *

U.S. Drought Monitor is a system for classifying drought severity according to a range of abnormally dry to exceptional drought. It is a collaborative effort between Federal and academic partners, produced on a weekly basis, to synthesize multiple indices, outlooks, and drought impacts on a map and in narrative form. This synthesis of indices is reported by the National Drought Mitigation Center at *http://droughtmonitor.unl.edu.*

* * * * *

■ 4. In § 760.1503, add paragraph (j) to read as follows.

§ 760.1503 Eligibility.

* * * * *

(j) Members of cooperative processors are not eligible for WHIP+ assistance for sugar beet losses.

§ 760.1508 [Amended]

■ 5. Amend § 760.1508 as follows:

■ a. In paragraph (c), remove the cross reference ''paragraph (b)(1)'' and add the cross reference ''paragraph (b)'' in its place; and

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■ b. In paragraph (f), remove the cross reference ''paragraph (b)(1)'' and add cross reference ''paragraph (e)'' in its place.

§ 760.1510 [Amended]

■ 6. In § 760.1510(a), remove the words ''a date that will be announced by the Deputy Administrator'' and add ''October 30, 2020'' in their place.

§ 760.1511 [Amended]

■ 7. In § 760.1511(a)(6), remove the cross reference ''paragraph (f)'' and add cross reference ''paragraph (g)'' in its place.

■ 8. Add subpart R, consisting of §§ 760.1800 through 760.1814, to read as follows:

Subpart R—Quality Loss Adjustment Program

Sec.

760.1800 Applicability.
760.1801 Administration.
760.1802 Definitions.
760.1803 Participant eligibility.
760.1804 Eligibility of affected production.
760.1805 Qualifying disaster events.
760.1806 Ineligible losses.
760.1807 Miscellaneous provisions.
760.1808 General provisions.
760.1809 Payment and adjusted gross income limitation.
760.1810 Time and method of application.
760.1811 Required documentation and verification.
760.1812 Payment calculation.
760.1813 Availability of funds and timing of payments.
760.1814 Requirement to purchase crop insurance or NAP coverage.

§ 760.1800 Applicability.

This subpart specifies the terms and conditions for the Quality Loss Adjustment (QLA) Program. The QLA Program provides disaster assistance for crop quality losses that were a consequence of hurricanes, excessive moisture, floods, qualifying drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.

§ 760.1801 Administration.

(a) The QLA Program is administered under the general supervision of the Administrator, Farm Service Agency (FSA), and the Deputy Administrator for Farm Programs, FSA. The QLA Program is carried out by FSA State and county committees with instructions issued by the Deputy Administrator.

(b) FSA State and county committees, and representatives and their employees, do not have authority to modify or waive any of the provisions of the regulations in this subpart or instructions issued by the Deputy Administrator.

(c) The FSA State committee will take any action required by the regulations in this subpart that the FSA county committee has not taken. The FSA State committee will also:

(1) Correct, or require an FSA county committee to correct, any action taken by the FSA county committee that is not in accordance with the regulations in this subpart; or

(2) Require an FSA county committee to withhold taking any action that is not in accordance with this subpart.

(d) No delegation to an FSA State or county committee precludes the FSA Administrator or the Deputy Administrator from determining any question arising under this subpart or from reversing or modifying any determination made by an FSA State or county committee.

(e) The Deputy Administrator has the authority to:

(1) Permit State and county committees to waive or modify a non-statutory deadline specified in this subpart; and

(2) Delegate authority to FSA State or county committees to make determinations under § 760.1812(f) and (g).

(f) Items of general applicability to program participants, including, but not limited to, application periods, application deadlines, internal operating guidelines issued to FSA State and county offices, prices, and payment factors established under this subpart, are not subject to appeal in accordance with part 780 of this chapter.

§ 760.1802 Definitions.

The following definitions apply to this subpart. The definitions in §§ 718.2 and 1400.3 of this title also apply, except where they conflict with the definitions in this section. In the event of conflict, the definitions in this section apply.

Affected production means the producer's ownership share of harvested production of an eligible crop, adjusted to standard moisture as established by the U.S. Grains Standards Act, a State regulatory agency, or industry standard, that had both:

(1) A quality loss due to a qualifying disaster event; and

(2) At least a 5 percent quality loss due to all eligible disaster events.

Average market price means the average market price determined according to § 1437.12 of this title.

Coverage level means the percentage determined by multiplying the elected yield percentage under a crop insurance policy or NAP coverage by the elected price percentage.

Crop insurance means an insurance policy reinsured by FCIC under the provisions of the Federal Crop Insurance Act, as amended. It does not include private plans of insurance.

Crop insurance indemnity means, for the purpose of this subpart, the payment to a participant for crop losses covered under crop insurance administered by RMA in accordance with the Federal Crop Insurance Act (7 U.S.C. 1501–1524).

Crop year means:

(1) For insurable crops, the crop year as defined according to the applicable crop insurance policy; and

(2) For NAP-eligible crops, the crop year as defined in § 1437.3 of this title.

Eligible crop means a crop for which coverage was available either from FCIC under part 400 of this title, or through NAP under § 1437.4 of this title.

Eligible disaster event means a disaster event that is an eligible cause of loss specified in § 1437.10 of this title, excluding insect infestation.

FCIC means the Federal Crop Insurance Corporation, a wholly owned Government Corporation of USDA, administered by RMA.

FSA means the Farm Service Agency, an agency of USDA.

Grading factor means a factor that describes the physical condition or a feature that is evaluated to determine the quality of the production, such as broken kernels and low-test weight.

Good farming practices means the cultural practices generally recognized as compatible with agronomic and weather conditions and used for the crop to make normal progress toward maturity, as determined by FSA. These practices are:

(1) For conventional farming practices, those generally recognized by agricultural experts for the area, which could include one or more counties; or

(2) For organic farming practices, those generally recognized by the organic agricultural experts for the area or contained in the organic system plan that is in accordance with the National Organic Program specified in part 205 of this title.

Harvested means:

(1) For insurable crops, harvested as defined according to the applicable crop insurance policy;

(2) For NAP-eligible single harvest crops, that a crop has been removed from the field, either by hand or mechanically;

(3) For NAP-eligible crops with potential multiple harvests in 1 year or harvested over multiple years, that the producer has, by hand or mechanically, removed at least 1 mature crop from the field during the crop year; and

(4) For mechanically harvested NAP-eligible crops, that the crop has been

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removed from the field and placed in a truck or other conveyance, except hay is considered harvested when in the bale, whether removed from the field or not.

Insurable crop means an agricultural crop (excluding livestock) for which the producer on a farm is eligible to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501–1524).

Multiple market crop means a crop that is delivered to a single market but can have fresh and processed prices based on grading. For example, a producer may intend to sell all production of an apple crop as fresh production; however, based on grading of the crop at the market, the producer is compensated for some production at the fresh price and for some production at the processing price.

Multiple planting means the planting for harvest of the same crop in more than one planting period in a crop year on different acreage.

NAP means the Noninsured Crop Disaster Assistance Program under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) and part 1437 of this title.

NAP-eligible crop means an agricultural crop for which the producer on a farm is eligible to obtain NAP coverage.

NAP service fee means the amount specified in § 1437.7 of this title that the producer must pay to obtain NAP coverage.

Nutrient factor means a factor determined by a test that measures the nutrient value of a crop to be fed to livestock. Examples include, but are not limited to, relative feed value and total digestible nutrients.

Production means quantity of the crop produced, which is expressed in a specific unit of measure including, but not limited to, bushels or pounds.

QLA Program means the Quality Loss Adjustment Program.

Qualifying disaster event means a hurricane, flood, tornado, typhoon, volcanic activity, snowstorm, wildfire, excessive moisture, qualifying drought, or a related condition that occurred in the 2018 or 2019 calendar year.

Qualifying drought means an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year.

Quality loss means:

(1) For forage crops, a reduction in an applicable nutrient factor for the crop; and

(2) For crops other than forage, a reduction in the total dollar value of the crop due to reduction in the physical condition of the crop indicated by an applicable grading factor.

Related condition means damaging weather or an adverse natural occurrence that occurred as a direct result of a specified qualifying disaster event, such as excessive rain, high winds, flooding, mudslides, and heavy smoke, as determined by the Deputy Administrator. The term does not include insect infestation.

Reliable production record means evidence provided by the participant that is used to substantiate the amount of production reported when verifiable records are not available, including copies of receipts, ledgers of income, income statements of deposit slips, register tapes, invoices for custom harvesting, and records to verify production costs, contemporaneous measurements, truck scale tickets, and contemporaneous diaries that are determined acceptable by the FSA county committee. To determine whether the records are acceptable, the FSA county committee will consider whether they are consistent with the records of other producers of the crop in that area.

RMA means the Risk Management Agency, an agency of USDA.

Salvage value means the dollar amount or equivalent for the quantity of the commodity that cannot be marketed or sold in any recognized market for the crop.

Secondary use means the harvesting of a crop for a use other than the intended use.

Unit of measure means:

(1) For insurable crops, the FCIC-established unit of measure; and

(2) For NAP-eligible crops, the established unit of measure used for the NAP price and yield.

USDA means the U.S. Department of Agriculture.

U.S. Drought Monitor is a system for classifying drought severity according to a range of abnormally dry to exceptional drought. It is a collaborative effort between Federal and academic partners, produced on a weekly basis, to synthesize multiple indices, outlooks, and drought impacts on a map and in narrative form. This synthesis of indices is reported by the National Drought Mitigation Center at *http://droughtmonitor.unl.edu.*

Value loss crop has the meaning specified in subpart D of part 1437 of this title.

Verifiable documentation means evidence that can be verified by FSA through an independent source.

Verifiable percentage of loss is the percentage of loss determined by comparing the applicable nutrient factors for a producer's affected production of a forage crop with the average of such nutrient factors from the 3 preceding crop years, as documented on FSA–899, Historical Nutritional Value Weighted Average Worksheet.

WHIP+ means the Wildfires and Hurricanes Indemnity Program Plus under subpart O of this part.

§ 760.1803 Participant eligibility.

(a) Participants will be eligible to receive a payment under this subpart only if they incurred a loss to an eligible crop due to a qualifying disaster event, as further specified in this subpart.

(b) To be an eligible participant under this subpart, a person or legal entity must be a:

(1) Citizen of the United States;

(2) Resident alien; for purposes of this subpart, resident alien means ''lawful alien'' (see § 1400.3 of this title);

(3) Partnership consisting solely of citizens of the United States or resident aliens; or

(4) Corporation, limited liability company, or other similar organizational structure organized under State law consisting solely of citizens or resident aliens of the United States.

(c) If any person who would otherwise be eligible to receive a payment dies before the payment is received, payment may be released as specified in § 707.3 of this chapter. Similarly, if any person or legal entity who would otherwise have been eligible to apply for a payment dies or is dissolved, respectively, before the payment is applied for, payment may be released in accordance with this subpart if a timely application is filed by an authorized representative. Proof of authority to sign for the deceased producer or dissolved entity must be provided. If a participant is now a dissolved general partnership or joint venture, all members of the general partnership or joint venture at the time of dissolution or their duly authorized representatives must sign the application. Eligibility of such participant will be determined, as it is for other participants, based upon ownership share and risk in producing the crop.

(d) An ownership share is required to be eligible for a payment under this subpart. Growers growing eligible crops under contract for crop owners are not eligible for a payment under this subpart unless the grower is also determined to have an ownership share of the crop. Any verbal or written contract that precludes the grower from having an ownership share renders the

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grower ineligible for payments under this subpart.

(e) A person or legal entity is not eligible to receive assistance under this subpart if FSA determines that the person or legal entity:

(1) Adopted any scheme or other device that tends to defeat the purpose of this subpart or any of the regulations applicable to this subpart;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination under any or all of the following: This subpart and parts 12, 400, 1400, and 1437 of this title.

(f) A person who is ineligible for crop insurance or NAP under § 400.458 or § 1437.16 of this title, respectively, for any year is ineligible for payments under this subpart for the same year.

(g) The provisions of § 718.11 of this chapter, providing for ineligibility for payments for offenses involving controlled substances, apply.

(h) As a condition of eligibility to receive payments under this subpart, the participant must have been in compliance with the Highly Erodible Land Conservation and Wetland Conservation provisions of part 12 of this title for the applicable crop year for which the producer is applying for benefits under this subpart, and must not otherwise be precluded from receiving payments under part 12, 400, 1400, or 1437 of this title or any law.

§ 760.1804 Eligibility of affected production.

(a) To be eligible for the QLA Program, an eligible crop's affected production must have suffered a quality loss due to a qualifying disaster event and had at least a 5 percent quality loss due to all eligible disaster events. Whether affected production of a crop had a 5 percent loss will be determined separately for crops with different crop types, intended uses, certified organic or conventional status, county, and crop year.

(b) Affected production of the following is not eligible for the QLA Program:

(1) Crops that were not grown commercially;

(2) Crops that were intended for grazing or were grazed;

(3) Crops not intended for harvest;

(4) Volunteer crops;

(5) Value loss crops;

(6) Maple sap;

(7) Honey;

(8) By-products resulting from processing or harvesting a crop, such as, but not limited to, cotton seed, peanut shells, wheat or oat straw, or corn stalks or stovers;

(9) First-year seeding for forage production;

(10) Immature fruit crops;

(11) Crops for which FCIC coverage or NAP coverage is unavailable;

(12) Multiple market crops for which the producer previously received a crop insurance indemnity or WHIP+ payment for a quality loss;

(13) Crops for which production used to calculate a crop insurance indemnity or WHIP+ payment was adjusted based on a comparison of the producer's sale price to FCIC established price;

(14) Crops that received a crop insurance indemnity, NAP payment, or WHIP+ payment based on the quantity of production that was considered unmarketable;

(15) Crops for which the producer previously received a crop insurance indemnity, NAP payment, or WHIP+ payment for which production was reported as salvage value or secondary use;

(16) Sugar beets for which a member of a cooperative processor received a payment through a cooperative agreement; and

(17) Crops that were destroyed.

(c) Only affected production from initial crop acreage will be eligible for a QLA Program payment, unless the provisions for subsequent crops in this section are met. All plantings of an annual or biennial crop are considered the same as a planting of an initial crop in tropical regions as defined in part 1437, subpart F, of this title.

(d) In cases where there is double cropped acreage, affected production of each crop may be eligible only if the specific crops are approved by the FSA State committee as eligible double cropping practices in accordance with procedures approved by the Deputy Administrator.

(e) Participants having affected production from multiple plantings may receive payments for each planting only if the planting meets the requirements of part 1437 of this title and all other provisions of this subpart are satisfied.

§ 760.1805 Qualifying disaster events.

(a) A producer is eligible for payments under this subpart only if the producer's affected production of an eligible crop suffered a crop quality loss due to a qualifying disaster event.

(b) A crop quality loss due to a qualifying disaster event must have occurred on acreage that was physically located in a county that received a:

(1) Presidential Emergency Disaster Declaration authorizing public assistance for categories C through G or individual assistance due to a qualifying disaster event occurring in the 2018 or 2019 calendar years; or

(2) Secretarial Disaster Designation for a qualifying disaster event occurring in the 2018 or 2019 calendar years.

(c) A producer with a crop quality loss on acreage not physically located in a county that was eligible under paragraph (b) of this section will be eligible for the QLA Program for losses due to qualifying disaster events only if the producer provides supporting documentation from which the FSA county committee determines that the crop quality loss on the unit was reasonably related to a qualifying disaster event as specified in this subpart. Supporting documentation may include furnishing climatological data from a reputable source or other information substantiating the claim of loss due to a qualifying disaster event.

§ 760.1806 Ineligible losses.

(a) A loss is not eligible under this subpart if any of the following apply:

(1) The cause of loss is determined by FSA to be the result of poor management decisions, poor farming practices, or drifting herbicides;

(2) The loss could have been mitigated using good farming practices, including losses due to high moisture content that could be mitigated by following best practices for drying and storing the crop;

(3) The qualifying disaster event occurred after the crop was harvested;

(4) FSA or RMA have previously disapproved a notice of loss for the crop and disaster event, unless that notice of loss was disapproved solely because it was filed after the applicable deadline; or

(5) The cause of loss was due to:

(i) Conditions or events occurring outside of the applicable growing season for the crop;

(ii) Insect infestation;

(iii) Water contained or released by any governmental, public, or private dam or reservoir project if an easement exists on the acreage affected by the containment or release of the water;

(iv) Failure of a power supply or brownout; or

(v) Failure to harvest or market the crop due to lack of a sufficient plan or resources.

(b) [Reserved]

§ 760.1807 Miscellaneous provisions.

(a) All persons with a financial interest in a legal entity receiving payments under this subpart are jointly and severally liable for any refund, including related charges, that is determined to be due to FSA for any reason.

(b) In the event that any application under this subpart resulted from

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erroneous information or a miscalculation, the payment will be recalculated and any excess refunded to FSA with interest to be calculated from the date of the disbursement.

(c) Any payment to any participant under this subpart will be made without regard to questions of title under State law, and without regard to any claim or lien against the commodity, or proceeds, in favor of the owner or any other creditor except agencies of the U.S. Government. The regulations governing offsets and withholdings in part 3 of this chapter apply to payments made under this subpart.

(d) Any participant entitled to any payment may assign any payment(s) in accordance with regulations governing the assignment of payments in part 3 of this chapter.

(e) The regulations in parts 11 and 780 of this title apply to determinations under this subpart.

§ 760.1808 General provisions.

(a) Eligibility and payments under this subpart will be determined based on the county where the affected production was harvested.

(b) FSA county committees will make any necessary adjustments to the applicant's affected production and other information on the application form used to calculate a payment when the county committee determines:

(1) Additional documentation has been requested by FSA but has not been provided by the participant;

(2) The loss is due to an ineligible cause; or

(3) The participant has a contract providing a guaranteed payment for all or a portion of the crop.

(c) Unless otherwise specified, all eligibility provisions of part 1437 of this title also apply to tropical crops for eligibility under this subpart.

(d) FSA will use the most reliable data available at the time payments under this subpart are calculated. If additional data or information is provided or becomes available after a payment is issued, FSA will recalculate the payment amount and the producer must return any overpayment amount to FSA. In all cases, payments can only issue based on the payment formula for losses that affirmatively occurred.

(e) Production that is commingled between counties, crop years, or ineligible and eligible acres before it was a matter of record or combination of record and cannot be separated by using records or other means acceptable to FSA will be prorated to each respective year, county, or type of acreage, respectively.

§ 760.1809 Payment and adjusted gross income limitation.

(a) A person or legal entity, other than a joint venture or general partnership, is eligible to receive, directly or indirectly, payments of not more than $125,000 for each of the 2018, 2019, and 2020 crop years under this subpart.

(b) Payments made to a joint operation, including a joint venture or general partnership, cannot exceed the amount determined by multiplying the maximum payment amount specified in paragraph (a) of this section by the number of persons and legal entities, other than joint operations, that comprise the ownership of the joint operation.

(c) The direct attribution provisions in § 1400.105 of this title apply to payments under this subpart.

(d) The notification of interest provisions in § 1400.107 of this title apply to payments under this subpart.

(e) The provisions for recognizing persons added to a farming operation for payment limitation purposes as described in § 1400.104 of this title apply to payments under this subpart.

(f) The $900,000 average AGI limitation provisions in part 1400 of this title relating to limits on payments for persons or legal entities, excluding joint ventures and general partnerships, apply to each applicant for the QLA Program unless at least 75 percent of the person or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. A person's or legal entity's average AGI for each of the program years 2018, 2019 or 2020, is determined by using the average of the adjusted gross incomes for the 3 taxable years preceding the most immediately preceding taxable year. If the person's or legal entity's average AGI is below $900,000 or at least 75 percent of the person or legal entity's average AGI is derived from farming, ranching, or forestry-related activities, the person or legal entity, is eligible to receive payments under this subpart.

§ 760.1810 Time and method of application.

(a) A completed FSA–898, Quality Loss Adjustment (QLA) Program Application, must be submitted in person, by mail, email, or facsimile to any FSA county office by the close of business on March 5, 2020.

(b) An application submitted in accordance with paragraph (a) of this section is not considered valid and complete for issuance of payment under this subpart unless FSA determines all the applicable eligibility provisions have been satisfied and the producer has submitted all of following by March 19, 2020:

(1) Documentation required by § 760.1811;

(2) FSA–578, Report of Acreage, for all acreage for any crop for which payments under this subpart are requested;

(3) FSA–895, Crop Insurance and/or NAP Coverage Agreement; and

(4) For forage crops, FSA–899, Historical Nutritional Value Weighted Average Worksheet, if verifiable documentation of historical nutrient factors is available.

(c) In addition to the forms listed in paragraph (b) of this section, applicants must also submit all the following eligibility forms within 60 days from the date of signing the QLA Program application if not already on file with FSA:

(1) AD–1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation Certification;

(2) CCC–902 Automated, Farm Operating Plan for Payment Eligibility 2009 and Subsequent Program Years;

(3) CCC–941 Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information; and

(4) CCC–942 Certification of Income from Farming, Ranching and Forestry Operations, if applicable.

(d) Failure to submit all required forms by the applicable deadlines in paragraphs (b) and (c) of this section may result in no payment or a reduced payment.

(e) Application approval and payment by FSA does not relieve a participant from having to submit any form required, but not filed, according to this section.

(f) Once signed by a producer, the application is considered to contain information and certifications of and pertaining to the producer regardless of who entered the information on the application.

(g) The producer applying for payment under this subpart certifies the accuracy and truthfulness of the information provided in the application as well as any documentation filed with or in support of the application. All information is subject to verification or spot check by FSA at any time, either before or after payment is issued. Refusal to allow FSA or any agency of the USDA to verify any information provided will result in the participant's forfeiting eligibility for payment under this subpart. FSA may at any time, including before, during, or after processing and paying an application, require the producer to submit any additional information necessary to implement or determine any eligibility

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provision of this subpart. Furnishing information specified in this subpart is voluntary; however, FSA may choose not to act on the application or approve payment if the required information is not provided. Providing a false certification will result in ineligibility and can also be punishable by imprisonment, fines, and other penalties.

§ 760.1811 Required documentation and verification.

(a) If requested by FSA, an applicant must provide documentation that establishes the applicant's ownership share and value at risk in the crop.

(b) The applicant must provide acceptable documentation that is dated and contains all information required to substantiate the applicant's certification to the satisfaction of the FSA county committee. Verifiable documentation is required to substantiate the total dollar value loss and associated affected production, grading factors, and nutritional factors. FSA may verify the records with records on file at the warehouse, gin, or other entity that received or may have received the reported production. Reliable production records are required to substantiate the reported amount of affected production for applications not based on the total dollar value loss.

(c) To be considered acceptable, verifiable documentation for grain crops that were sold may come from any time between harvest and sale of the affected production, unless the FSA county committee determines the record is not representative of the condition within 30 days of harvest. For all other crops, the verifiable documentation must come from tests or analysis completed within 30 days of harvest, unless the FSA county committee determines that the record is representative of the condition of the affected production at time of harvest. Examples of acceptable records for purposes of this paragraph (c) include:

(1) Warehouse grading sheets;

(2) Settlement sheets;

(3) Sales receipts showing grade and price or disposition to secondary market due to quality; and

(4) Laboratory test results.

(d) For forage crops, producers must submit verifiable documentation showing the nutrient factors for the affected production. Producers must also submit verifiable documentation of the historical nutrient factors for the 3 preceding crop years if available. The nutrient factors that must be documented for a crop will determined by the FSA county committee based on the standard practice for the crop in that county.

(e) For all crops other than forage crops, producers must submit verifiable documentation of the total dollar value loss due to quality, if available, and verifiable documentation of grading factors due to quality.

(f) The participant is responsible for:

(1) Retaining, providing, and summarizing, at time of application and whenever required by FSA, the best available verifiable production records for the crop;

(2) Providing the information in a manner that can be easily understood by the FSA county committee; and

(3) Providing supporting documentation about the disaster event if the FSA county committee has reason to question the disaster event.

(e) Participants must provide all records for any production of a crop that is grown with an arrangement, agreement, or contract for guaranteed payment.

(f) Participants are required to retain documentation in support of their application for 3 years after the date of approval.

(g) Participants receiving QLA Program payments or any other person who furnishes such information to USDA must permit authorized representatives of USDA or the Government Accountability Office, during regular business hours, to enter the agricultural operation and to inspect, examine, and make copies of books, records, or other items for the purpose of confirming the accuracy of the information provided by the participant.

§ 760.1812 Payment calculation.

(a) Payments will be calculated separately for crops based on the crop type, intended use, certified organic or conventional status, county, and crop year.

(b) For forage crops with verifiable documentation of nutrient factors for the affected production and for the 3 preceding crop years, the payment will be equal to the producer's total affected production multiplied by the producer's verifiable percentage of loss, multiplied by the average market price, multiplied by 70 percent.

(c) For forage crops with verifiable documentation of nutrient factors for the affected production but not for the 3 preceding crop years, the payment will be equal to the producer's total affected production multiplied by the county average percentage of loss in paragraph (f) of this section, multiplied by the average market price, multiplied by 70 percent, multiplied by 50 percent.

(d) For crops other than forage with verifiable documentation of the total dollar value loss due to quality, the payment will be equal to the producer's total dollar value loss on the affected production, multiplied by 70 percent.

(e) For crops other than forage without verifiable documentation of the total dollar value loss but with verifiable documentation of grading factors, the payment will be equal to the producer's affected production multiplied by the county average loss per unit of measure in paragraph (g) of this section, multiplied by 70 percent, multiplied by 50 percent.

(f) The county average percentage of loss is the average percentage of loss from producers eligible for payment under paragraph (b) of this section if at least 5 producers in a county are eligible for payment for a crop under paragraph (b) of this section. If less than 5 producers in a county are eligible for payment for a crop under paragraph (b) of this section, the Deputy Administrator will:

(1) Determine a county average percentage of loss based on the best available data, including, but not limited to, evidence of losses in contiguous counties; or

(2) If a county average percentage of loss cannot be determined due to insufficient data, not issue payments to applicants under paragraph (c) of this section.

(g) The county average loss per unit of measure is based on the weighted average sales price from producers eligible for payment under paragraph (d) of this section if at least 5 producers in a county are eligible for payment for a crop under paragraph (d) of this section. If less than 5 producers are eligible for payment in a county under paragraph (d) of this section, the Deputy Administrator will:

(1) Determine a county average loss per unit of measure based on the best available data, including, but not limited to, evidence of losses in contiguous counties; or

(2) If a county average loss per unit of measure cannot be determined due to insufficient data, not issue payments to applicants under paragraph (e) of this section.

§ 760.1813 Availability of funds and timing of payments.

(a) Payments will be issued after the application period has ended and all applications have been reviewed by FSA.

(b) In the event that, within the limits of the funding made available by the Secretary, approval of eligible applications would result in payments

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in excess of the amount available, FSA will prorate payments by a national factor to reduce the payments to an amount that is less than available funds as determined by the Secretary.

(c) Applications and claims that are unpaid or prorated for any reason will not be carried forward for payment under other funds for later years or otherwise, but will be considered, as to any unpaid amount, void and nonpayable.

§ 760.1814 Requirement to purchase crop insurance or NAP coverage.

(a) For the first 2 consecutive crop years for which crop insurance or NAP coverage is available after the enrollment period for the QLA Program ends, a participant who receives payment under this subpart for a crop loss in a county must obtain:

(1) For an insurable crop, crop insurance with at least a 60 percent coverage level for that crop in that county; or

(2) For a NAP-eligible crop, NAP coverage with a coverage level of 60 percent.

(b) Participants who exceed the average adjusted gross income limitation for NAP payment eligibility [1] for the applicable crop year may meet the purchase requirement specified in paragraph (a)(2) of this section by purchasing Whole-Farm Revenue Protection crop insurance coverage, if eligible, or paying the NAP service fee and premium even though the participant will not be eligible to receive a NAP payment due to the average adjusted gross income limit.

(c) The final crop year to purchase crop insurance or NAP coverage to meet the requirements of paragraph (a) of this section is the 2023 crop year.

(d) A participant who obtained crop insurance or NAP coverage for the crop in accordance with the requirements for WHIP+ in § 760.1517 is considered to have met the requirement to purchase crop insurance or NAP coverage for the QLA Program.

(e) If a producer fails to obtain crop insurance or NAP coverage as required in this section, the producer must reimburse FSA for the full amount of QLA Program payment plus interest. A producer will only be considered to have obtained NAP coverage for the purposes of this section if the participant submitted a NAP application for coverage and paid the requisite NAP service fee and any applicable premium by the applicable deadline and completed all program requirements required under the coverage agreement, including filing an acreage report.

Richard Fordyce,

Administrator, Farm Service Agency.

[FR Doc. 2020–28914 Filed 1–5–21; 8:45 am]

BILLING CODE 3410–05–P

[1] See §§ 1400.500(a) and 1400.1(a)(4) of this title.

DEPARTMENT OF ENERGY

10 CFR Part 1061

RIN 1990–AA50

Procedures for the Issuance of Guidance Documents

AGENCY: Office of the General Counsel, Department of Energy.

ACTION: Final rule.

SUMMARY: The U.S. Department of Energy (DOE) publishes this final rule to establish procedures for the issuance of DOE guidance documents in accordance with Executive Order 13891. In this final rule, DOE establishes internal agency requirements for the contents of guidance documents, and procedures for providing notice of, and soliciting public comment on, certain guidance documents. This final rule also establishes procedures for the public to petition DOE to modify or withdraw guidance documents.

DATES: The effective date of this rule is February 5, 2021.

ADDRESSES: The docket for this rulemaking, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *https://www.regulations.gov*. All documents in the docket are listed in the *https://www.regulations.gov* index. However, not all documents listed in the index, such as those containing information that is exempt from public disclosure by law, may be publicly available. A link to the docket web page can be found at *https://www.regulations.gov/document?D=DOE-HQ-2020-0033-0001*. The docket web page explains how to access all documents, including public comments, in the docket.

FOR FURTHER INFORMATION CONTACT: Mr. Matthew Ring, U.S. Department of Energy, Office of the General Counsel, Forrestal Building, GC–33, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–2555, Email: *Guidance@hq.doe.gov*.

SUPPLEMENTARY INFORMATION:

I. Summary of Final Rule

In this final rule, DOE incorporates into the Code of Federal Regulations a new 10 CFR part 1061, which implements the requirements of Executive Order 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents.'' (84 FR 55235 (Oct. 15, 2019)) Among other things, Executive Order 13891 requires agencies to provide more transparency for their guidance documents by creating a searchable online database for current guidance documents,[1] and by establishing procedures to allow the public to comment on significant guidance documents and to petition the agency to withdraw or modify guidance documents.[2] Moreover, the Executive Order requires agencies to clearly state in their guidance documents that such guidance does not have the force and effect of law and is not legally binding, except as authorized by law or as incorporated into a contract. (84 FR 55235, 55237)

This final rule applies to all DOE guidance documents, as defined by Executive Order 13891, including the exceptions listed in section 2 of the Executive Order. This final rule also lists specific types of documents and communications that fall within the broader exceptions listed in the Executive Order (*e.g.,* speeches and presentations given by DOE officials, legal positions taken in litigation or enforcement actions). (See also OMB M–20–02, Guidance Implementing Executive Order 13891, Titled ''Promoting the Rule of Law Through Improved Agency Guidance Documents'' (Oct. 31, 2019), available at *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*). This final rule also adopts the same definition of ''significant guidance document'' as section 2 of Executive Order 13891.

In accordance with Executive Order 13891, this final rule requires that all DOE guidance documents clearly state that they do not have the force and effect of law and are not legally binding on the public, and that they are only intended to provide clarity to the public

[1] DOE's online database may be found at *energy.gov/guidance*.

[2] Executive Order 13891 defines ''significant guidance document'' as ''a guidance document that may reasonably be anticipated to: (i) Lead to an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (ii) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (iii) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (iv) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles of Executive Order 12866.'' (84 FR 55235, 55236)

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An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

Elizabeth K. Appel,

Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2021–00317 Filed 1–8–21; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–OIA–31249; PIN00IO14.XI0000]

U.S. Nominations to the World Heritage List; 15-Day Notice of Opportunity for Public Comment

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: This notice requests public comment on the next potential U.S. nominations from the U.S. World Heritage Tentative List (''Tentative List'') to the United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage List. The public may also make suggestions for future additions to the Tentative List. This notice complies with applicable World Heritage Program regulations.

DATES: Comments will be accepted on or before January 26, 2021.

ADDRESSES: You may submit comments by either of the following methods:

- *Mail to:* Jonathan Putnam, Office of International Affairs, National Park Service, 1849 C Street NW, Washington, DC 20240.
- *Email to: jonathan_putnam@nps.gov*. Phone: (202) 354–1809.

Comments will not be accepted in any way other than those specified above.

Information on the U.S. World Heritage program can be found at: *https://www.nps.gov/subjects/internationalcooperation/worldheritage.htm*.

To request a paper copy of the U.S Tentative List, please contact April Brooks, Office of International Affairs, National Park Service, 1849 C Street NW, Room 2415, Washington, DC 20240 (202) 354–1808, or Email: *april_brooks@nps.gov*.

FOR FURTHER INFORMATION CONTACT: Jonathan Putnam, (202) 354–1809.

For the World Heritage nomination format, see the World Heritage Centre website at: *http://whc.unesco.org/en/nominations*.

SUPPLEMENTARY INFORMATION:

Background

The World Heritage List is an international list of cultural and natural properties nominated by the signatories to the World Heritage Convention (1972), an international treaty for the preservation of natural and cultural heritage sites of global significance. U.S. participation and the roles of the Department of the Interior and the National Park Service are authorized by Title IV of the Historic Preservation Act Amendments of 1980 and conducted in accordance with 36 CFR part 73—World Heritage Convention. The National Park Service serves as the principal technical agency for the U.S. Government to the Convention.

A Tentative List is a national list of natural and cultural properties appearing to meet the World Heritage Committee eligibility criteria for nomination to the World Heritage List. It is a list of candidate sites which a country may consider for nomination within a given time period, but does not guarantee future nomination. The World Heritage Committee's *Operational Guidelines* ask participating nations to provide Tentative Lists, which aid in evaluating properties for the World Heritage List on a comparative international basis and help the Committee to schedule its work over the long term. A country cannot nominate a property unless it has been on its Tentative List for a minimum of a year. Countries also are limited at this time to nominating no more than one site in any given year.

Neither inclusion in the Tentative List nor inscription as a World Heritage Site imposes legal restrictions on owners or neighbors of sites, nor does it give the United Nations any management authority or ownership rights in U.S. World Heritage Sites, which continue to be subject to U.S. laws.

Current U.S. World Heritage Tentative List

The current U.S. World Heritage Tentative List includes the following properties:

Cultural Sites

Civil Rights Movement Sites, Alabama [other properties would be added for a complete nomination]

—Dexter Avenue King Memorial Baptist Church, Montgomery
—Bethel Baptist Church, Birmingham
—16th Street Baptist Church, Birmingham

Dayton Aviation Sites, Ohio

—Dayton Aviation Heritage National Historical Park

Hopewell Ceremonial Earthworks, Ohio

—Fort Ancient State Memorial, Warren County
—Hopewell Culture National Historical Park, near Chillicothe
—Newark Earthworks State Historic Site, Newark and Heath

Jefferson (Thomas) Buildings, Virginia (Proposed Jointly as an Extension to the World Heritage Listing of Monticello and the University of Virginia Historic District)

—Poplar Forest, Bedford County
—Virginia State Capitol, Richmond

Mount Vernon, Virginia

Serpent Mound, Ohio

Ellis Island, New Jersey and New York

Chicago Early Skyscrapers, Illinois, including: [Other Properties May Be Added in the Course of Developing a Nomination]

—Rookery
—Auditorium Building
—Monadnock Building
—Ludington Building
—Marquette Building
—Old Colony Building
—Schlesinger & Mayer (Carson, Pirie Scott) Department Store
—Second Leiter Building
—Fisher Building

Central Park, New York

Brooklyn Bridge, New York

Moravian Bethlehem District, Pennsylvania

Natural Sites

National Marine Sanctuary of American Samoa (Formerly Fagatele Bay National Marine Sanctuary, American Samoa)

Okefenokee National Wildlife Refuge, Georgia

Petrified Forest National Park, Arizona

White Sands National Monument, New Mexico

Marianas Trench National Monument, U.S. Territory, Commonwealth of the Northern Mariana Islands, Guam

Central California Current, California, Including

—Cordell Bank National Marine Sanctuary
—Monterey Bay National Marine Sanctuary
—Greater Farallones National Marine Sanctuary
—Farallon Islands National Wildlife Refuge

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NM-OTERO-21-0275-A-000618

—Point Reyes National Seashore
—Golden Gate National Recreation Area

Big Bend National Park, Texas

Pacific Remote Islands National Monument, U.S. Territorial Waters

Notes: (1) A nomination for the Hopewell Ceremonial Earthworks was authorized for preparation in May 2018 by the Department of the Interior and is now under development. (2) The Department has requested and is now awaiting advice from the International Council on Monuments and Sites (ICOMOS) on adding other properties to the proposal for the Civil Rights Movement Sites and its overall justification. (3) The government of the German state of Saxony is proposing an extension to the World Heritage listing of Christiansfeld, a Moravian Church Settlement in Denmark, that would include Herrnhut in Germany, the Moravian Bethlehem District in Bethlehem, Pennsylvania, and potentially other historic Moravian settlements in other countries.

Request for Public Comments

Comments on whether to authorize the preparation of a World Heritage nomination for any of the properties on the Tentative List should address the readiness and ability of the property owner(s) to prepare a satisfactory nomination document. Suggestions for additions to the Tentative List not previously submitted must address: (i) How the property(ies) would meet the World Heritage nomination criteria, requirements for authenticity, integrity, legal protection and management. Information on these criteria and requirements can be found on the website noted in the **FOR FURTHER INFORMATION CONTACT** section of this notice; and (ii) The U.S. legal prerequisites that include the agreement of all property owners to the nomination of their property, an official determination that the property is nationally significant (such as by designation as a National Historic or National Natural Landmark), and effective legal protection. All previous suggestions for the Tentative List made during previous comment periods or otherwise submitted since 2008, have been retained and considered and should not be resubmitted at this time.

Selection and Nomination

All public comments will be summarized and provided to Department of the Interior officials, who will obtain the advice of the Federal Interagency Panel for World Heritage before making any selection of properties for authorization to prepare a World Heritage nomination. The selection may include relevant factors, such as the likelihood of being able to complete a satisfactory nomination, and the fact that the United States is currently prohibited by law from providing any funding to UNESCO, including UNESCO and World Heritage member dues. Once authorized, the property owners may prepare a draft nomination.

The Department does not have a fixed schedule for completing or submitting World Heritage nominations. No more than one nomination from any country may be submitted per year, per the UNESCO World Heritage *Operational Guidelines.* Completed nominations, if approved by the Department for submission, may be submitted to the UNESCO World Heritage Centre by February 1 of any year.

Public Availability of Comments

All comments will be a matter of public record. Before including an address, phone number, email address, or other personal identifying information in a comment, members of the public should be aware that the entire comment—including personal identifying information—may be made public at any time. While commenters can request that personal identifying information be withheld from public review, it may not be possible to comply with this request.

Authority: 54 U.S.C. 307101; 36 CFR part 73.

George Wallace,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2021–00310 Filed 1–8–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#-31331; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before December 25, 2020, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by January 26, 2021.

ADDRESSES: Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line ''Public Comment on property or proposed district name, (County) State.'' If you have no access to email you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before December 25, 2020. Pursuant to Section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State or Tribal Historic Preservation Officers:

CALIFORNIA

Orange County

Johnson, Hugh Edgar, House, 444 W. Brookdale Pl., Fullerton, SG100006089

FLORIDA

Monroe County

Matecumbe Methodist Church Cemetery, 81801 Overseas Hwy., Islamorada, SG100006117

Pinellas County

House at 827 Mandalay Avenue, 827 Mandalay Ave., Clearwater, SG100006118

Sumter County

Wild Cow Prairie Cemetery, 5822 Cty. Rd. 673, Bushnell vicinity, SG100006119

Volusia County

Wright, James W., Building, 258 West Voorhis Ave., DeLand, SG100006120

Walton County

Herman Lodge No. 108 Free & Accepted Masons of Florida, 314 Madison St., Freeport, SG100006121

ILLINOIS

Cook County

Irving, James B., House, 2771 Crawford Ave., Evanston, SG100006102

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7910–00–685–6660—Pad, Machine, Scrubbing, Floor, 17″ x ¼″
7910–00–685–6671—Pad, Machine, Polishing, Floor, 15″ x ¼″
7910–00–685–6672—Pad, Machine, Polishing, Floor, 17″ x ¼″
7910–00–685–6686—Pad, Machine, Polishing, Floor, 12″ x ¼″
7910–00–685–6687—Pad, Machine, Polishing, Floor, 13″ x ¼″
7910–00–820–7989—Pad, Floor, Buffing, Nylon, Tan, 15″
7910–00–NIB–0006—Pad, Floor, Burnishing, Animal Hair, Gray, 17″
7910–00–NIB–0009—Pad, Floor, Burnishing, Animal Hair, Gray, 21″
7910–00–NIB–0016—Pad, Floor, Polishing, Animal Hair, Beige, 17″
7910–00–NIB–0029—Pad, Floor, Buffing, Polyester, Red, 14″
7910–00–NIB–0030—Pad, Floor, Buffing, Polyester, Red, 15″
7910–00–NIB–0034—Pad, Floor, Scrubbing, Polyester, Blue, 14″
7910–00–NIB–0040—Pad, Floor, Scrubbing, Polyester, Blue, 21″
7910–01–512–5933—Pad, Floor, Stripping, Polyester, Brown, 17″
7910–01–512–5937—Pad, Floor, Scrubbing, Polyester, Blue, 13″
7910–01–512–5950—Pad, Floor, Scrubbing, Polyester, Blue, 17″

Designated Source of Supply: Beacon Lighthouse, Inc., Wichita Falls, TX
Contracting Activity: GSA/FSS Greater Southwest ACQUISITI, Fort Worth, TX

Michael R. Jurkowski,

Deputy Director, Business & PL Operations.

[FR Doc. 2021–00151 Filed 1–7–21; 8:45 am]

BILLING CODE 6353–01–P

COUNCIL ON ENVIRONMENTAL QUALITY

Guidance Document Online Portal

AGENCY: Council on Environmental Quality.

ACTION: Notice of online portal for agency guidance documents.

SUMMARY: In accordance with Executive Order (E.O.) 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' dated October 9, 2019, and Office of Management and Budget (OMB) Memorandum M–20–02, dated October 31, 2019, the Council on Environmental Quality (CEQ) is providing notice of where the public may access CEQ guidance documents.

ADDRESSES: The portal may be found at *https://www.whitehouse.gov/ceq/resources/*.

FOR FURTHER INFORMATION CONTACT: Amy B. Coyle, Deputy General Counsel, Council on Environmental Quality, 730 Jackson Place NW, Washington, DC 20503, 202–395–5750, *amy.b.coyle@ceq.eop.gov*.

SUPPLEMENTARY INFORMATION: E.O. 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' [1] requires that each agency establish or maintain on its website a single, searchable, indexed database that contains or links to all agency guidance documents [2] in effect. In accordance with E.O. 13891 and OMB's implementing guidance, set forth in OMB Memorandum M–20–02,[3] CEQ has complied with this requirement through its website portal, which is available to the public at *whitehouse.gov/ceq/resources*.[4] As required by E.O. 13891, the website also reiterates that: (1) The contents of the guidance documents accessed through the portal lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract; and (2) these documents are intended only to provide clarity to the public regarding existing requirements under statutes and regulations administered by CEQ. Under the E.O., CEQ may not cite, use, or rely on any guidance document that is not posted on or linked to the website portal, except to establish historical facts.

CEQ will also include on its website portal a link to its final rule establishing CEQ's internal agency procedures for issuing guidance documents, required by section 4 of E.O. 13891. The final rule relating to CEQ's guidance document procedures is published elsewhere in this issue of the **Federal Register**.

Authority: 42 U.S.C. 4321–4347; 42 U.S.C. 4371–4375; and E.O. 13891, 84 FR 55235.

Mary B. Neumayr,

Chairman.

[FR Doc. 2020–28879 Filed 1–7–21; 8:45 am]

BILLING CODE 3125–F1–P

[1] 84 FR 55235 (Oct. 15, 2019).

[2] E.O. 13891 defines ''guidance document'' as ''an agency statement of general applicability, intended to have future effect on the behavior of regulated parties, that sets forth a policy on a statutory, regulatory, or technical issue, or an interpretation of a statute or regulation. . . .'' *Id.*

[3] OMB issued its guidance memorandum on October 31, 2019. *See* M–20–02, Guidance Implementing Executive Order 13891, Titled ''Promoting the Rule of Law Through Improved Agency Guidance Documents'' (Oct. 31, 2019), *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*.

[4] CEQ's website portal at *https://www.whitehouse.gov/ceq/resources/* includes links to CEQ guidance documents and resources, some of which are provided on nepa.gov (*https://www.energy.gov/nepa/ceq-guidance-documents*) and sustainability.gov (*https://www.sustainability.gov/resources.html*).

DEPARTMENT OF EDUCATION

[Docket No. ED–2020–SCC–0167]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before February 8, 2021.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Find this information collection request by selecting ''Department of Education'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox. Comments may also be sent to *ICDocketmgr@ed.gov*.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, (202) 377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note

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PART 220—[REMOVED]

■ Accordingly, for the reasons stated in the preamble and under the authority of 5 U.S.C. 301, the Corps removes 33 CFR part 220.

R.D. James,

Assistant Secretary of the Army (Civil Works).

[FR Doc. 2020–27908 Filed 1–7–21; 8:45 am]

BILLING CODE 3720–58–P

COUNCIL ON ENVIRONMENTAL QUALITY

40 CFR Part 1519

RIN 0331–AA04

Guidance Document Procedures

AGENCY: Council on Environmental Quality.

ACTION: Final rule.

SUMMARY: Pursuant to Executive Order (E.O.) 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' this final rule establishes the process that the Council on Environmental Quality (CEQ) will follow for issuing guidance documents. E.O. 13891 requires Federal agencies to finalize regulations or amend existing regulations to establish processes and procedures for issuing guidance documents.

DATES: This rule is effective January 8, 2021.

FOR FURTHER INFORMATION CONTACT: Amy B. Coyle, Deputy General Counsel, Council on Environmental Quality, 730 Jackson Place NW, Washington, DC 20503, (202) 395–5750, *amy.b.coyle@ceq.eop.gov*.

SUPPLEMENTARY INFORMATION:

On October 9, 2019, President Trump issued E.O. 13891,[1] which addresses the development, use, and public availability of agency guidance documents. It requires agencies to promulgate or update existing regulations setting forth their procedures for issuing guidance documents. In accordance with section 6 of E.O. 13891, on October 31, 2019, the Office of Management and Budget (OMB) issued memorandum M–20–02, ''Guidance Implementing Executive Order 13891, Titled 'Promoting the Rule of Law Through Improved Agency Guidance Documents' '' (OMB M–20–02)[2] to provide guidance and implement the Executive order. OMB M–20–02 provides agencies with additional instruction on how to implement E.O. 13891, including the required rulemaking.

I. Summary of Final Rule

In this final rule, CEQ adds a new part 1519 to the Code of Federal Regulations to set out its procedures for the development and issuance of guidance documents consistent with the direction and reflecting the policies described in E.O. 13891 and OMB M–20–02.

A. Section 1519.1, ''Purpose''

Section 1519.1, ''Purpose,'' states that the purpose of part 1519 is to implement E.O. 13891, and explains CEQ's process for developing and issuing guidance.

B. Section 1519.2, ''Guidance Document Procedures''

Section 1519.2, ''Guidance document procedures,'' defines ''guidance documents'' in paragraph (a) and describes documents that do not meet that definition in paragraph (b), consistent with section 2(b)[3] of the E.O. and Q2 of OMB M–20–02.

Paragraph (c) of § 1519.2 lists the minimum requirements for any document meeting the definition of a guidance document consistent with Q22 of OMB M–20–02, including a title, unique identification number, date, indication of whether it revises or replaces prior guidance, summaries, and legal citations. Additionally, consistent with section 4(i) of E.O. 13891, paragraph (c)(6) includes a requirement that each guidance document clearly state that it does not bind the public, except as authorized by law or as incorporated into a contract.

Paragraph (c)(11) of § 1519.2 specifies that any guidance document must be posted on CEQ's website. E.O. 13891 also directed Federal agencies to make guidance documents publicly available in an indexed, searchable database online. As described in the **Federal Register** notice published today, CEQ has complied with this requirement through its website *whitehouse.gov/ceq/resources*.[4] As noted on this website, CEQ may not cite, use, or rely on any guidance that is not posted on its web pages except to establish historical facts. CEQ also makes clear that CEQ's guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract.

Finally, paragraph (d) of § 1519.2 requires the CEQ Office of the General Counsel to review and clear all guidance documents before CEQ issues them.

C. Section 1519.3, ''Procedures for the Public To Request Withdrawal or Modification of a Guidance Document''

Consistent with section 4(ii) of E.O. 13891, § 1519.3, ''Procedures for the public to request withdrawal or modification of a guidance document,'' addresses the process for members of the public to petition CEQ to withdraw or modify a particular guidance document, including designation of the Office of the General Counsel as the office within CEQ to which the public should direct such petitions. CEQ intends to provide additional instructions on its guidance website, including appropriate contact information and format of the petitions.

D. Section 1519.4, ''Significant Guidance Documents''

Finally, § 1519.4, ''Significant guidance documents,'' addresses specific requirements for a subset of ''guidance documents'' that are ''significant guidance documents'' as defined by section 2(c) of E.O. 13891. Paragraph (a) sets forth that definition. OMB's Office of Information and Regulatory Affairs (OIRA) makes the final determination of whether a guidance document is significant. If OIRA makes such a determination for a particular guidance document, this section will also apply. Consistent with section 4(iii) of E.O. 13891, paragraph (b) sets forth procedural requirements, including public notice and comment for at least 30 days, unless an exception applies; public response to major concerns raised in comments; approval on a non-delegable basis by the Chairman, or an official acting as Chairman; review by OIRA under Executive Order 12866; and compliance with the applicable requirements for regulations or rules.

II. Rulemaking Analyses and Notices

A. Regulatory Procedures

Under the Administrative Procedure Act, an agency may waive notice and comment procedures if an action is an interpretative rule, a general statement of policy, or a rule of agency organization, procedure, or practice. *See* 5 U.S.C. 553(b)(A). This rule describes the internal process that CEQ will follow to comply with the requirements specified in E.O. 13891 when issuing guidance documents as defined by the

[1] 84 FR 55235 (Oct. 15, 2019).

[2] OMB M–20–02 is available at *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*.

[3] E.O. 13891 section 2(b) lists the following as exclusions to the definition of guidance document. 84 FR at 55235–36.

[4] CEQ's website, *whitehouse.gov/ceq/resources*, includes links to CEQ guidance documents and resources, some of which are provided on *nepa.gov* and *sustainability.gov*.

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E.O. Because this rule is one of agency organization, procedure, or practice, it is exempt from the requirement to provide prior notice and opportunity for public comment.

B. Regulatory Planning and Review (E.O. 12866 and E.O. 13563)

E.O. 12866 provides that OIRA will review all significant rules. E.O. 13563 reaffirms the principles of E.O. 12866, calling for improvements in the Federal government's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory objectives. OMB determined that this final rule does not meet the requirements for a significant regulatory action under E.O. 12866, as supplemented by E.O. 13563, and therefore it was not subject to review.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, as amended (RFA), 5 U.S.C. 601 *et seq.,* and E.O. 13272 do not apply to this rulemaking because it is not subject to the notice and comment requirements of 5 U.S.C. 553(b).

D. Unfunded Mandates Reform Act

A statement containing the information required by the Unfunded Mandates Reform Act, 2 U.S.C. 1531 *et seq.,* is not required. This rule will not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year, and it will not have a significant or unique effect on State, local, or Tribal governments, or the private sector.

E. Reducing Regulation and Controlling Regulatory Costs (E.O. 13771)

This rule is not an E.O. 13771 regulatory action because this rule is not significant under E.O. 12866.

F. Federalism (E.O. 13132)

Under the criteria in section 1 of E.O. 13132, this rule will not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement because it will not substantially and directly affect the relationship between the Federal and State governments.

G. National Environmental Policy Act

The purpose of this rulemaking is to formalize the CEQ's administrative procedures for issuing guidance documents, as required by E.O. 13891. CEQ has determined that the final rule is a non-major Federal action under the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.,* and would not have any effect on the environment because it merely outlines internal CEQ administrative procedures and does not authorize any activity or commit resources to a project that may affect the environment.

H. Paperwork Reduction Act

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This rule will not impose recordkeeping or reporting requirements on State, local, or Tribal governments, individuals, businesses, or organizations.

List of Subjects in 40 CFR Part 1519

Administrative practice and procedure, Guidance.

Mary B. Neumayr,
Chairman.

■ For the reasons stated in the preamble, the Council on Environmental Quality adds 40 CFR part 1519 as follows:

PART 1519—GUIDANCE DOCUMENTS

Sec.
1519.1 Purpose.
1519.2 Guidance document procedures.
1519.3 Procedures for the public to request withdrawal or modification of a guidance document.
1519.4 Significant guidance documents.

Authority: 42 U.S.C. 4321–4347; 42 U.S.C. 4371–4375; and E.O. 13891, 84 FR 55235.

§ 1519.1 Purpose.

(a) This part implements Executive Order 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' and reflects the policies described in that order. The provisions in this part address the Council on Environmental Quality's procedures for the development and issuance of agency guidance documents. This part explains what constitutes guidance documents, and sets forth the minimum requirements for guidance documents, the procedures to request withdrawal or modification of guidance documents, and the additional requirements and procedures for significant guidance documents.

(b) This part is intended to improve the internal management of the Council on Environmental Quality. It is not intended to and does not create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its agencies or other entities, its officers or employees, or any other person.

(c) If Executive Order 13891 or any provision thereof is rescinded or superseded, this part remains in effect.

§ 1519.2 Guidance document procedures.

(a) *Definition of guidance documents.* For purposes of this part, guidance documents are agency statements of general applicability, intended to have future effect on the behavior of regulated parties, that set forth a policy on a statutory, regulatory, or technical issue, or an interpretation of a statute or regulation.

(b) *Documents excluded from the definition of guidance documents.* Guidance documents do not include:

(1) Agency statements of specific, rather than general, applicability.

(2) Agency statements that do not set forth a policy on a statutory, regulatory, or technical issue or an interpretation of a statute or regulation.

(3) Legislative rules promulgated under 5 U.S.C. 553 (or similar statutory provisions), or exempt from rulemaking requirements under 5 U.S.C. 553(a).

(4) Rules of agency organization, procedure, or practice that are not anticipated to have substantial future effect on the behavior of regulated parties or the public.

(5) Decisions of agency adjudication.

(6) Documents or agency statements that are directed solely to the Council on Environmental Quality or other agencies (or personnel of such agencies) that are not anticipated to have substantial future effect on the behavior of regulated parties or the public.

(7) Legal briefs and other court filings.

(8) Legal advice or opinions from the Council on Environmental Quality's Office of the General Counsel.

(9) Categories of guidance documents made exempt from Executive Order 13891 by the Administrator of the Office of Management and Budget's Office of Information and Regulatory Affairs through memoranda issued pursuant to section 4(b) of Executive Order 13891.

(c) *Elements of guidance documents.* In general, each guidance document must:

(1) Provide the title of the guidance document;

(2) Provide a unique document identification number;

(3) Identify the Council on Environmental Quality and any office, as appropriate, issuing the guidance document;

(4) Include the date of issuance;

(5) Include the term ''guidance'';

(6) Include a disclaimer clarifying that it does not have the force and effect of law; is not meant to bind the public in any way; and is intended only to provide clarity to the public regarding

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existing requirements under the law or agency policies. When a guidance document is binding because the law authorizes binding guidance or because a contract incorporates the guidance, the Council on Environmental Quality must modify the disclaimer to reflect accordingly;

(7) If it is a revision to or a replacement of a previously issued guidance document, identify the guidance document that it revises or replaces;

(8) Include a short summary of the subject matter covered in the guidance document at the top of the document;

(9) Identify the activities to which and the persons to whom the guidance document applies;

(10) Include the citation to the statutory provision or regulation to which the guidance document applies or which it interprets; and

(11) Be posted on the Council on Environmental Quality's website.

(d) *Review and clearance.* The Office of the General Counsel must review and clear all proposed guidance documents before issuance.

§ 1519.3 Procedures for the public to request withdrawal or modification of a guidance document.

(a) Any member of the public may petition the Council on Environmental Quality to withdraw or modify a guidance document.

(b) The petitioner must submit the request for the withdrawal or modification of a guidance document in writing to the Office of the General Counsel. The petition must contain a statement of the reasons for the petition and any supporting documents to support the petitioner's request.

(c) Upon receipt of a petition for withdrawal or modification of a guidance document, the Office of the General Counsel will consult with the relevant offices and coordinate the response to the petition.

(d) The Council on Environmental Quality should respond to a petition in writing, including electronically, within 90 days of receipt of a petition. The response should state whether the petition is granted, granted in part and denied in part, denied, or provisionally denied for lack of adequate information. If the petition is provisionally denied for lack of adequate information, the response should indicate what additional information is necessary to adjudicate the petition. The Office of the General Counsel should respond to the petition in writing no later than 90 days after receipt of the necessary additional information. The response should state whether the petition is granted, granted in part and denied in part, or denied.

(e) The Council on Environmental Quality may consider in a coordinated manner or provide a coordinated response to similar petitions for withdrawal or modification.

(f) The Council on Environmental Quality need not respond to petitions under this part for withdrawal or modification of documents that do not meet the definition of a guidance document.

§ 1519.4 Significant guidance documents.

(a) *Significant guidance documents definition.* For the purposes of this section, significant guidance documents are guidance documents that may be reasonably anticipated to:

(1) Lead to an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles of Executive Order 12866.

(b) *Actions the Council on Environmental Quality will take before issuing significant guidance documents.* When the Office of Management and Budget's Office of Information and Regulatory Affairs determines that a guidance document is a significant guidance document, the Council on Environmental Quality must:

(1) Submit the guidance document for review by the Office of Information and Regulatory Affairs under Executive Order 12866;

(2) Publish the draft significant guidance document in the **Federal Register** for a public notice and comment period of at least 30 days;

(i) This provision will not apply if the Council on Environmental Quality for good cause finds that notice and public comment is impracticable, unnecessary, or contrary to the public interest.

(ii) If such a finding is made, the Council on Environmental Quality must incorporate such a finding and a brief statement of its reasoning into the significant guidance document.

(3) Obtain approval on a non-delegable basis from the Chairman or an official who is serving in an acting capacity as the Chairman.

(4) Provide a public response to major concerns raised in comments on the draft significant guidance document.

(5) Announce the availability of the final significant guidance document.

(6) Comply with the applicable requirements for regulations or rules, including significant regulatory actions, set forth in Executive Orders 12866, ''Regulatory Planning and Review,'' 13563, ''Improving Regulation and Regulatory Review,'' 13609, ''Promoting International Regulatory Cooperation,'' 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' and 13777, ''Enforcing the Regulatory Reform Agenda.''

(c) *Exemption.* This section will not apply if the Chairman or an official who is serving in an acting capacity as the Chairman of the Council on Environmental Quality and the Administrator of the Office of Information and Regulatory Affairs agree that exigency, safety, health, or other compelling cause warrants an exemption from some or all requirements.

[FR Doc. 2020–28881 Filed 1–7–21; 8:45 am]

BILLING CODE 3225–F1–P

FEDERAL PERMITTING IMPROVEMENT STEERING COUNCIL

40 CFR Chapter IX

[Agency Docket Number 2020–001]

RIN 3121–AA01

Adding Mining as a Sector of Projects Eligible for Coverage Under Title 41 of the Fixing America's Surface Transportation Act

AGENCY: Federal Permitting Improvement Steering Council.

ACTION: Final rule.

SUMMARY: The Federal Permitting Improvement Steering Council (Permitting Council) has voted to add mining as a sector with infrastructure projects eligible for coverage under Title 41 of the Fixing America's Surface Transportation Act (FAST–41). A new part will be included in the Code of Federal Regulations that adds mining to the list of statutory FAST–41 sectors. The addition of mining as a FAST–41 sector will allow qualified mining infrastructure projects to become FAST–41 covered projects. FAST–41 coverage will help Federal agencies coordinate their environmental and project review efforts to improve the timeliness, efficiency, predictability, and transparency of the decision-making processes associated with covered

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Rules and Regulations

Federal Register
Vol. 86, No. 3
Wednesday, January 6, 2021

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 760

[Docket ID: FSA–2020–0011]

RIN 0560–AI55

Agricultural Disaster Indemnity Programs

AGENCY: Farm Service Agency (FSA), Department of Agriculture (USDA).

ACTION: Final rule.

SUMMARY: This rule establishes the Quality Loss Adjustment (QLA) Program to provide assistance to producers who suffered eligible crop quality losses due to hurricanes, excessive moisture, floods, drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. It also amends the provisions for the Wildfire and Hurricane Indemnity Program Plus (WHIP+) to be consistent with the Further Consolidated Appropriations Act, 2020, by adding excessive moisture and drought occurring in 2018 and 2019 as qualifying disaster events and clarifying eligibility of sugar beets. The changes to WHIP+ were self-enacting and were previously implemented by FSA.

DATES:

Effective date: January 6, 2021.

Comment due date: Comments are due by March 8, 2021.

ADDRESSES: We invite you to submit comments on this rule. You may submit comments by either of the following methods, although FSA prefers that you submit comments electronically through the Federal eRulemaking Portal:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and search for Docket ID FSA–2020–0011. Follow the instructions for submitting comments.
- *Mail:* Director, SND, FSA, U.S. Department of Agriculture, 1400 Independence Avenue SW, Stop 0522, Washington, DC 20250–0522. In your comment, specify the docket ID FSA–2020–0011.

Comments will be available for viewing online at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Kimberly Graham at (202) 720–6825 (voice); or by email at: *kimberly.graham@usda.gov*. Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice).

SUPPLEMENTARY INFORMATION:

Background

The Additional Supplemental Appropriations for Disaster Relief Act, 2019 (''Disaster Relief Act,'' Pub. L. 116–20) provided disaster assistance for necessary expenses related to losses of crops (including milk, on-farm stored commodities, crops prevented from planting in 2019, and harvested adulterated wine grapes), trees, bushes, and vines, as a consequence of hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. The Further Consolidated Appropriations Act, 2020 (Pub. L. 116–94), makes several changes to the provisions of the Disaster Relief Act, including:

- Specifying that assistance would be provided for crop quality losses;
- Adding excessive moisture as a qualifying disaster event;
- Adding drought as a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year; and
- Providing that sugar beet losses in 2018 and 2019 would be paid through cooperative processors (to be paid to producer members as determined by such processors).

This rule implements those provisions of the Further Consolidated Appropriations Act, 2020, by establishing the QLA Program to provide assistance for crop quality losses and amending the WHIP+ regulations to be consistent with the changes to qualifying disaster events and eligibility of sugar beet losses.

QLA Program

This rule establishes the QLA Program to provide disaster assistance for crop quality losses that were a consequence of hurricanes, excessive moisture, floods, qualifying drought, tornadoes, typhoons, volcanic activity, snowstorms, or wildfires occurring in calendar years 2018 and 2019. Eligible crops generally include crops for which FCIC crop insurance coverage or Noninsured Crop Disaster Assistance Program (NAP) coverage is available; however, value loss crops,[1] honey, and maple sap are not eligible. The QLA Program provides assistance for losses to crops that were sold or fed to livestock or are in storage; crops that were destroyed are not eligible. Assistance will be based on a producer's harvested affected production of an eligible crop that had a quality loss due to a qualifying disaster event and had at least a 5 percent quality loss due to all eligible disaster events.

Qualifying disaster events include hurricanes, floods, tornados, typhoons, volcanic activity, snowstorms, wildfires, excessive moisture, qualifying drought, and related conditions that occurred in the 2018 or 2019 calendar year. Assistance is available for eligible producers in counties that received a qualifying Presidential Emergency Disaster Declaration (declaration) or Secretarial Disaster Designation (designation) due to one or more of the qualifying disaster events or a related condition. As required by the Further Consolidated Appropriations Act, 2020, drought is only a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year (referred to as ''qualifying drought'' in this rule). Only producers in those counties that received a disaster declaration or designation qualify for the QLA Program based on the declaration or designation. Producers in counties that did not receive a qualifying declaration or designation may still apply; however, they must also provide supporting documentation to establish that the crop was directly affected by a qualifying disaster event and suffered the same

[1] Value loss crops include aquaculture, floriculture, mushrooms, ginseng root, ornamental nursery, sea grass and sea oats, Christmas trees, and turfgrass sod.

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minimum loss as required by a crop in a disaster declared or designated county. Lists of counties with Presidential Emergency Disaster Declarations and Secretarial Disaster Designations for all qualifying disaster events for 2018 and 2019 are available at *farmers.gov/quality-loss.*

FSA recognizes that a crop may suffer quality losses due to multiple disaster events in a single crop year, and the portion of a crop's quality loss that can be attributed to a specific disaster event may be difficult to determine. Therefore, while a qualifying disaster event must have caused at least a portion of the affected production's quality loss, FSA will consider the total quality loss caused by all eligible disaster events for eligibility and payment calculation purposes. Eligible disaster events for the QLA Program include those listed for NAP in 7 CFR 1437.10, except that the QLA Program does not cover losses due to insect infestation.

The QLA Program does not cover losses due to disaster events occurring after a crop was harvested or due to crop deterioration while in storage. Quality losses that could have been mitigated using good farming practices are not eligible. For example, if a producer's corn crop received a quality discount due to high moisture content, the producer could have mitigated that quality loss by using best practices for drying and storing the crop; therefore, that producer's quality loss due to high moisture is not eligible. The QLA Program does not provide assistance for losses that cannot be determined to have occurred or for losses for which a notice of loss was previously disapproved by FSA, RMA, or an approved insurance provider selling and servicing Federal crop insurance policies unless that notice of loss was disapproved solely because it was filed after the applicable deadline.

The QLA Program does not provide assistance for certain quality losses that were already compensated under a Federal crop insurance plan, NAP, or WHIP+. This includes losses to affected production of:

- Multiple market crops already compensated under crop insurance or WHIP+;
- Crops for which production used to calculate a crop insurance indemnity or WHIP+ payment was adjusted based on a comparison of the producer's sale price to the FCIC established price;
- Crops that received a crop insurance indemnity, NAP payment, or WHIP+ payment based on the quantity of production that was considered unmarketable; and
- Crops for which production was reported as salvage value or secondary use.

The QLA Program also excludes quality losses to sugar beets that were compensated through cooperative agreements with cooperative processors.

Affected production of a subsequent crop grown on double cropped acreage is only eligible if the crop has been approved as an eligible double cropping practice by the FSA State committee.

Application

FSA will accept QLA Program applications from January 6, 2021, through March 5, 2021. To apply, producers must submit a completed QLA Program application either in person, by mail, email, or facsimile to an FSA county office. To be eligible, a producer must submit a complete application, which includes all of the following:

- FSA–898, Quality Loss Adjustment (QLA) Program Application;
- FSA–899, Historical Nutritional Value Weighted Average Worksheet (only for forage crops with verifiable documentation of historical nutrient factors from the 3 preceding crop years);
- FSA–578, Report of Acreage;
- FSA–895, Crop Insurance and/or NAP Coverage Agreement; and
- Required documentation, as discussed below.

The FSA–578, FSA–895, and FSA–899 forms, and other required documentation must be submitted to the producer's county office by March 19, 2021.

If not already on file with FSA, producers must also submit the following eligibility forms for each crop year within 60 days of the date the producer signs the application:

- AD–1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification;
- CCC–902, Farm Operating Plan for Payment Eligibility;
- CCC–941 Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information; and
- CCC–942 Certification of Income from Farming, Ranching and Forestry Operations, if applicable.

Payments will not be made until all necessary eligibility documentation is received. Failure of an applicant to submit documentation timely may result in FSA not issuing a payment or, in the case of legal entities, a reduced payment if the required documentation for one or more members of the entity is not submitted timely.

Required Documentation

To support their applications, producers must submit documentation showing the quality loss and quantity of affected production by March 19, 2021. Documentation of the quality loss (total dollar value loss, grading factors, and nutrient factors, as applicable), must be verifiable. Verifiable documentation is documentation that can be verified by FSA through an independent source; FSA may verify the submitted records with records on file at the warehouse, gin, laboratory, or other entity that received or tested the reported production. Examples of acceptable, verifiable documentation include warehouse grading sheets, settlement sheets, sales receipts, and laboratory test results. Except for grain crops that have been sold, the documentation must be from laboratory tests or analysis completed within 30 days of harvest to be considered acceptable, unless the FSA county committee determines that the record is representative of the condition of the affected production within 30 days of harvest. For grain crops that were sold, the verifiable documentation can be from any time from harvest through the time of sale, unless the FSA county committee determines the record is not representative of the condition within 30 days of harvest. Producers who do not have acceptable, verifiable documentation are ineligible for the QLA Program.

For forage crops, all producers must submit verifiable documentation showing the nutrient factors for the affected production of the crop. Producers must also submit verifiable documentation of the historical nutrient factors for the 3 preceding crop years if available. The type of nutrient factors (such as relative feed value or total digestible nutrients) that must be documented for a particular crop will be determined by the FSA county committee based on the standard practice for the crop in that county. For all crops other than forage crops, producers must submit verifiable documentation of the total dollar value loss due to quality, if available, and verifiable documentation of grading factors due to quality.

Documentation to support the quantity of affected production included on the application must be verifiable for non-forage crops that receive a QLA payment based on the producer's total dollar value loss. For all other crops (non-forage crops without a producer's total dollar value loss and all forage crops), records to support the quantity of affected production must be reliable. Reliable production records means evidence provided by the participant that is used to substantiate the amount of production reported when verifiable

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records are not available, including copies of receipts, ledgers of income, income statements of deposit slips, register tapes, invoices for custom harvesting, and records to verify production costs, contemporaneous measurements, truck scale tickets, and contemporaneous diaries that are determined acceptable by the FSA county committee. To determine whether the records are acceptable, the FSA county committee will consider whether they are consistent with the records of other producers of the crop in that area.

Payment Calculation

QLA Program payments will be calculated using different formulas based on the type of crop (forage or non-forage) and based on the type of documentation submitted. All QLA payments, regardless of whether they are forage or non-forage, and the type of documentation submitted, will be calculated using a 70 percent payment factor. Payments calculated based on a county average loss, as described below, will be subject to an additional payment factor of 50 percent.

For forage crops with verifiable documentation of both the nutrient factors for the affected production and historical nutrient factors for the 3 preceding crop years, payment will be equal to the amount of the producer's total affected production multiplied by the producer's verifiable percentage of loss, multiplied by the average market price determined by FSA, multiplied by 70 percent. The producer's verifiable percentage of loss is determined by comparing the nutrient factor test results for the affected production to the average from the 3 preceding crop years, as documented on the FSA–899, Historical Nutritional Value Weighted Average Worksheet. The average market price for the QLA Program is the price used for NAP established according to 7 CFR 1437.12.

For forage crops with verifiable documentation of nutrient factors for the affected production but without historical nutrient factors for the 3 preceding crop years, the payment will be equal to the amount of the producer's total affected production multiplied by the county average percentage of loss, multiplied by the average market price determined by FSA, multiplied by 70 percent, multiplied by 50 percent.

For affected production of non-forage crops with verifiable documentation of the total dollar value loss due to quality, the QLA Program payment is equal to the producer's total dollar value loss on the affected production of the crop, multiplied by a payment factor of 70 percent.

For non-forage crops without verifiable documentation of a total dollar value loss but with verifiable documentation of grading factors due to quality, the payment will be equal to the amount of producer's affected production multiplied by the county average loss per unit of measure, multiplied by 70 percent, multiplied by 50 percent.

To determine the county average percentage of loss (for forage crops) or the county average loss per unit of measure (for non-forage crops), FSA will calculate the average loss for a crop based on losses of producers applying with verifiable documentation of historical nutritional factors (for forage crops) or the total dollar value loss (for non-forage crops) if at least 5 eligible producers submitted that documentation in the county. If less than 5 eligible producers in a county submit verifiable documentation of their historical nutritional factors or their total dollar value loss, FSA will determine a county average percentage of loss or county average loss per unit of measure based on the best available data, including losses of other QLA Program participants in contiguous counties. If sufficient data is still not available after considering other sources, FSA may determine that a county average cannot be calculated and producers in that county applying for payment under the applicable calculation are ineligible.

Payments for the QLA Program will not be issued until the application period has ended in order to allow FSA to determine the county average losses, as well as the total payments requested under the QLA Program. The Further Consolidated Appropriations Act, 2020 provides funding for the QLA Program to be available until December 31, 2021, in an amount equal to the remaining funds provided under the Bipartisan Budget Act of 2018 (Pub. L. 115–123) for losses due to Hurricanes Harvey, Irma, Maria, and other hurricanes and wildfires occurring in calendar year 2017,[2] and remaining funds provided under the Disaster Relief Act for losses due to Hurricanes Michael and Florence, other hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.[3] If the total amount of calculated QLA Program payments exceeds the amount of funding available, FSA will prorate all payments by a national factor.

A person or legal entity, other than a joint venture or general partnership, is eligible to receive, directly or indirectly, up to $125,000 per crop year in QLA Program payments. FSA will use the notification of interest provisions in 7 CFR 1400.107 and payment attribution provisions in 7 CFR 1400.105 for attributing and limiting payments to persons and legal entities. FSA will also use provisions in 7 CFR 1400.104 when changes in a farming operation result in an increase in persons to which payment limitation applies. Payments made to a joint operation (including a general partnership or joint venture) cannot exceed $250,000 per person or legal entity that comprise the ownership of the joint operation. Payments made to a legal entity will be reduced proportionately by an amount that represents the direct or indirect ownership in the legal entity by any person or legal entity that has otherwise reached the maximum payment limitation. These rules for attributing and limiting payments are consistent with the programs FSA administers on behalf of the Commodity Credit Corporation.

A person or legal entity, other than a joint venture or general partnership, is ineligible for a 2018, 2019, or 2020 payment if the person's or legal entity's average adjusted gross income (AGI) is more than $900,000, unless at least 75 percent of that person's or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. The average AGI for each of the program years 2018, 2019, or 2020, is determined using the average of the adjusted gross incomes for the 3 taxable years preceding the most immediately preceding taxable year. For example, for the 2019 program year, the producer's AGI would be based on the 2015, 2016, and 2017 tax years. If at least 75 percent of the person's or legal entity's AGI is derived from farming, ranching, or forestry-related activities and the participant provides the required certification and documentation, the person or legal entity is eligible to

[2] FSA provided assistance for losses due to Hurricanes Harvey, Irma, Maria, and other hurricanes and wildfires occurring in calendar year 2017 through the 2017 Wildfires and Hurricanes Indemnity Program (2017 WHIP) (final rule published July 18, 2018, 83 FR 33795–33809) and the Florida Citrus Recovery Grant Program.

[3] FSA has previously provided assistance for losses due to Hurricanes Michael and Florence, other hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019 through the Wildfires and Hurricanes Indemnity Program Plus (WHIP+), On-Farm Storage Loss Program, and Milk Loss Program (final rule published September 13, 2019, 84 FR 48518–48537), as well as through several grants and cooperative agreements with sugar beet cooperatives.

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receive QLA Program payments up to the applicable payment limitation noted above. With respect to joint ventures and general partnerships, this AGI provision will be applied to each member of the joint venture and general partnership.

Requirement to Purchase Crop Insurance or NAP Coverage

The Disaster Relief Act requires all participants who receive QLA Program payments to purchase crop insurance or NAP coverage for the next 2 available crop years. The latest year for meeting compliance with this provision will be the 2023 crop year. In other words, if the 2 consecutive years of coverage are not met by 2023 coverage year, the participant is ineligible for and must refund QLP Program payments. Participants must obtain crop insurance or NAP, as may be applicable, at the 60 percent coverage level or higher. In situations where crop insurance is unavailable for a crop, the Disaster Relief Act requires that a QLA Program participant obtain NAP coverage. Section 1001D of the Food Security Act of 1985 (1985 Farm Bill) provides that a person or entity with AGI in amount greater than $900,000 is not eligible to participate in NAP; however, producers with an AGI greater than $900,000 may be eligible for the QLA Program if at least 75 percent of that person's or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. Accordingly, in order to reconcile this restriction in the 1985 Farm Bill and the Disaster Relief Act's requirement to obtain NAP or crop insurance coverage, QLA Program participants may meet the Disaster Relief Act's purchase requirement by purchasing Whole-Farm Revenue Protection crop insurance coverage, if eligible, or they may pay the applicable NAP service fee and premium for the 60 percent coverage level despite their ineligibility for a NAP payment. In other words, the service fee and premium must be paid even though no NAP payment may be made because the AGI of the person or entity exceeds the 1985 Farm Bill limitation.

The crop insurance and NAP coverage requirements are specific to the crop and county (county where the crop is physically located for insurance and administrative county for NAP) for which QLA Program payments are paid. This means that a producer is required to purchase crop insurance or NAP coverage for the crop in the county for which the producer was issued a QLA Program payment. Producers who receive a payment on a crop in a county and who have the crop or crop acreage in subsequent years, as provided in this rule, and who fail to obtain the 2 years of crop insurance or NAP coverage must refund all QLA Program payments for that crop in that county with interest from the date of disbursement. This is a condition of payment eligibility specified by Disaster Relief Act and is therefore not subject to partial payment eligibility or other types of equitable relief. Producers who were paid under the QLA Program for a crop in a county but do not plant that crop in a subsequent year are not subject to the crop insurance or NAP purchase requirement. WHIP+ participants who already met the requirement to purchase crop insurance or NAP coverage as specified in 7 CFR 760.1517 are considered to have also met the requirement to purchase crop insurance or NAP coverage for QLA Program purposes, and they are not required to obtain additional years of crop insurance or NAP coverage as a result of also receiving a QLA Program payment for that crop.

Applicable general eligibility requirements, including recordkeeping requirements and required compliance with HELC and Wetland Conservation provisions, are similar to those for the previous ad hoc crop disaster programs and current permanent disaster programs. All information provided to FSA for program eligibility and payment calculation purposes, including production records, is subject to spot check.

WHIP+

FSA, on behalf of the Secretary of Agriculture, previously implemented provisions of the Disaster Relief Act by establishing WHIP+ through a final rule published on September 19, 2019 (84 FR 48518–48537). The Disaster Relief Act provided assistance for losses of crops, trees, bushes, and vines, as a consequence of hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. WHIP+ covers only production losses of crops except in specific circumstances discussed previously in this document when the producer may have also been compensated for quality losses.

This rule amends 7 CFR 760.1500(c) and the definition of ''qualifying disaster event'' in § 760.1502 to include excessive moisture and qualifying drought. As under the QLA Program, drought is only considered a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year. This rule adds definitions of ''qualifying drought'' and ''U.S. Drought Monitor'' in § 760.1502.

The addition of these qualifying disaster events for WHIP+ was self-enacting as the text in the law clearly specified the required changes without need for interpretation; therefore, FSA began the sign-up period for losses due to excessive moisture and qualifying drought on March 23, 2020, and sign-up ended on October 30, 2020. Producers applying for WHIP+ assistance for losses due to excessive moisture or qualifying drought were required to meet all requirements in 7 CFR part 760, subpart O, including the requirement to purchase crop insurance for 2 years as specified in § 760.1517.

The Further Consolidated Appropriations Act, 2020 also directed the Secretary to pay sugar beet losses in 2018 and 2019 through cooperative processors. FSA has established cooperative agreements with sugar beet processors; those processors will be responsible for distributing assistance to their members. This rule amends the eligibility provisions in § 760.1517 to specify that members of cooperatives are not eligible for a WHIP+ payment for sugar beet losses.

FSA is also updating § 760.1510(a) to reflect the application deadline of October 30, 2020, and correcting references in §§ 760.1508(c) and (f) and 760.1511(a)(6).

Notice and Comment and Effective Date

The Administrative Procedure Act (5 U.S.C. 553) provides that the notice and comment and 30-day delay in the effective date provisions do not apply when the rule involves a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts. This rule involves programs for payments to certain agricultural commodity producers and therefore falls within that exemption. Due to the nature of the rule and the need to implement the regulations expeditiously to provide assistance to agricultural producers, FSA finds that notice and public procedure are contrary to the public interest. Therefore, even though this rule is a major rule for purposes of the Congressional Review Act, FSA is not required to delay the effective date for 60 days from the date of publication to allow for Congressional review. Therefore, this rule is effective upon publication in the **Federal Register**.

Executive Orders 12866, 13563, 13771 and 13777

Executive Order 12866, ''Regulatory Planning and Review,'' and Executive

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Order 13563, ''Improving Regulation and Regulatory Review,'' direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13777, ''Enforcing the Regulatory Reform Agenda,'' established a Federal policy to alleviate unnecessary regulatory burdens on the American people.

The Office of Management and Budget (OMB) designated this rule as economically significant under Executive Order 12866, and therefore, OMB has reviewed this rule. The costs and benefits of this rule are summarized below. The full cost benefit analysis is available on *regulations.gov.*

Executive Order 13771, titled Reducing Regulation and Controlling Regulatory Costs, was issued on January 30, 2017. The OMB guidance in M–17–21, dated April 5, 2017, specifies that ''transfers'' are not covered by Executive Order 13771 but that requirements imposed apart from transfers in transfer rules may qualify as costs or cost savings under Executive Order 13771, for example the information collection requirements in this rule. This rule is not subject to the requirements of E.O. 13771 because this rule results in no more than de minimis costs.

Cost Benefit Analysis Summary

WHIP+ initially provided approximately $3 billion in supplemental assistance to producers for qualifying agricultural production losses. In the Further Consolidated Appropriations Act, 2020, Congress changed provisions of the Disaster Relief Act as follows:

1. Extended eligibility under WHIP+ to also cover [4]—

a. Crop production losses due to excessive moisture in calendar years 2018 and 2019;

b. Crop production losses due to drought in calendar years 2018 and 2019 if the area within the county in which the loss occurred was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year;

2. Provided assistance for sugar beet losses in 2018 and 2019 to be paid through cooperative processors; [5] and

3. Authorized assistance for crop quality losses that occurred in calendar years 2018 and 2019 through the QLA Program (implemented by this rule).

Eligible crops under the QLA Program include crops for which Federal crop insurance or NAP coverage is available. To be eligible for the QLA Program, a crop must have suffered a quality loss due to a qualifying disaster event and had at least a 5 percent quality discount due to a combination of the qualifying disaster event and any other QLA-eligible causes of loss. Eligible crops may have been sold, fed on farm to livestock, or been in storage at the time of application.

USDA estimates the Further Consolidated Appropriations Act, 2020 will provide approximately $950 million for the continuation of disaster assistance program delivery, including payments to eligible producers for production losses due to excessive moisture and extreme drought under WHIP+ and for quality losses covered by the QLA Program. Of that amount, USDA anticipates that an estimated $500 million will be available for QLA Program payments. However, the amount of funding ultimately available for the QLA Program will not be known until other payments, for example for excessive moisture and drought under WHIP+, are finalized.

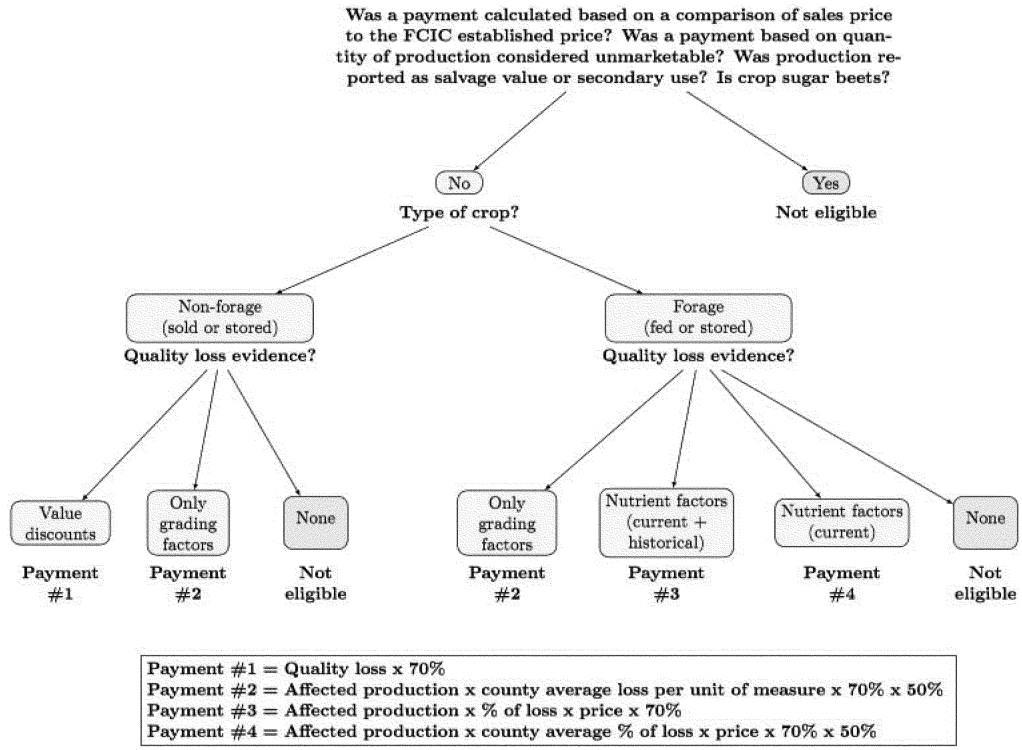
The QLA Program payment calculation depends on several factors, as shown in Figure 1. A producer is ineligible for a QLA Program payment if they received a crop insurance indemnity, NAP payment, or WHIP+ payment for a crop that was unmarketable, sold for salvage value or secondary use, or if the payment was based on a comparison of the sales price of the affected production and the applicable reference price. Otherwise, payments or benefits received under the Federal crop insurance, NAP or WHIP+ do not affect a producer's eligibility or payment received from the QLA Program. The payment calculation depends on the use of production (non-forage or forage) and evidence at hand of the crop quality loss. Producers who do not have evidence of the quality loss are ineligible.

[4] The addition of excessive moisture and certain drought conditions as qualifying causes of loss under WHIP+ is specific, not open to interpretation, and is therefore self-enacting. Accordingly, the provision was previously implemented. FSA began the sign-up period on March 23, 2020, and sign-up ended on October 30, 2020.

[5] Assistance for sugar beet losses for members of cooperative processors is provided through a separate program.

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Figure 1. Eligibility and Payment Calculation



Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA, Pub. L. 104–121), generally requires an agency to prepare a regulatory flexibility analysis of any rule whenever an agency is required by the Administrative Procedure Act or any other law to publish a proposed rule, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule is not subject to the Regulatory Flexibility Act because USDA is not required by Administrative Procedure Act or any law to publish a proposed rule for this rulemaking.

Environmental Review

The environmental impacts of this final rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and the FSA regulation for compliance with NEPA (7 CFR part 799). The legislative intent for implementing the QLA Program is to provide assistance to producers who suffered eligible crop quality losses due to hurricanes, excessive moisture, floods, drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.

While OMB has designated this rule as ''economically significant'' under Executive Order 12866, ''economic or social effects are not intended by themselves to require preparation of an environmental impact statement'' (see 40 CFR 1502.16(b)), when not interrelated to natural or physical environmental effects.

For this rule, the FSA Categorical Exclusions found in 7 CFR 799.31 apply, specifically 7 CFR 799.31(b)(6)(iii), (iv), and (vi) (that is, § 799.31(b)(6)(iii) Financial assistance to supplement income, manage the supply of agricultural commodities, or influence the cost or supply of such commodities or programs of a similar nature or intent (that is, price support programs); § 799.31(b)(6)(iv) Individual farm participation in FSA programs where no ground disturbance or change in land use occurs as a result of the proposed action or participation; and § 799.31(b)(6)(vi) Safety net programs administered by FSA). No Extraordinary Circumstances (7 CFR 799.33) exist.

For the outlined reasons, FSA has determined that the implementation of the QLA Program and the participation in the QLA Program does not constitute a major Federal action that would significantly affect the quality of the human environment, individually or cumulatively. Therefore, FSA will not prepare an environmental assessment or environmental impact statement for this regulatory action.

Executive Order 12372

Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' requires consultation with State and local officials that would be directly affect by proposed Federal financial assistance. The objectives of the Executive order are to foster an intergovernmental partnership and a strengthened federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance and direct Federal development. For reasons specified in the final rule related notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs and activities

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within this rule are excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, ''Civil Justice Reform.'' This rule will not preempt State or local laws, regulations, or policies unless they represent an irreconcilable conflict with this rule. The rule will not have retroactive effect. Before any judicial action may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR parts 11 and 780 must be exhausted.

Executive Order 13132

This rule has been reviewed under Executive Order 13132, ''Federalism.'' The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, except as required by law. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

The USDA's Office of Tribal Relations (OTR) has assessed the impact of this rule on Indian Tribes and determined that this rule may have significant Tribal implications that require ongoing adherence to Executive Order 13175. OTR notes that the programs are similar to programs that have been administered by FSA and RMA in the past; having not heard any concerns regarding the administration of these in the past, and the fact that provisions are mandated in the Disaster Relief Act, OTR recommended that consultation is not required at this time. Tribes can request consultation at any time. FSA will work with OTR to ensure meaningful consultation is provided where changes, additions, and modifications identified in this rule are not expressly mandated by law.

The Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104–4) requires Federal agencies to assess the effects of their regulatory actions on State local, and Tribal governments or the private sector. Agencies generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures of $100 million or more in any 1 year for State, local, or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates, as defined in Title II of UMRA, for State, local, and Tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, FSA submitted the QLA Program information collection request to OMB for emergency approval. OMB approved the 6-month emergency information collection.

E-Government Act Compliance

FSA is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Federal Assistance Programs

The titles and numbers of the Federal Domestic Assistance Program found in the Catalog of Federal Domestic Assistance to which this rule applies are:

10.129—Wildfire and Hurricanes Indemnity Program Plus
10.133—Quality Loss Adjustment Program

List of Subjects in 7 CFR Part 760

Dairy products, Indemnity payments, Reporting and recordkeeping requirements.

For the reasons discussed above, FSA amends 7 CFR part 760 as follows:

PART 760—INDEMNITY PAYMENT PROGRAMS

■ 1. Revise the authority citation for part 760 to read as follows:

Authority: 7 U.S.C. 4501 and 1531; 16 U.S.C. 3801, note; 19 U.S.C. 2497; Title III, Pub. L. 109–234, 120 Stat. 474; Title IX, Pub. L. 110–28, 121 Stat. 211; Sec. 748, Pub. L. 111–80, 123 Stat. 2131; Title I, Pub. L. 115–123, 132 Stat. 65; Title I, Pub. L. 116–20, 133 Stat. 871; and Division B, Title VII, Pub. L. 116–94, 133 Stat. 2658.

Subpart O—Agricultural Disaster Indemnity Programs

§ 760.1500 [Amended]

■ 2. In § 760.1500(c), remove the words ''and wildfires'' and add ''wildfires, excessive moisture, and qualifying drought'' in their place.

■ 3. Amend § 760.1502 as follows:

■ a. In the definition of ''Qualifying disaster event'', in paragraph (2) of remove the word ''wildfire'' and add ''wildfire, excessive moisture, qualifying drought'' in its place; and

■ b. Add the definitions of ''Qualifying drought'' and ''U.S. Drought Monitor'' in alphabetical order.

The additions read as follows:

§ 760.1502 Definitions.

* * * * *

Qualifying drought means an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year.

* * * * *

U.S. Drought Monitor is a system for classifying drought severity according to a range of abnormally dry to exceptional drought. It is a collaborative effort between Federal and academic partners, produced on a weekly basis, to synthesize multiple indices, outlooks, and drought impacts on a map and in narrative form. This synthesis of indices is reported by the National Drought Mitigation Center at *http://droughtmonitor.unl.edu.*

* * * * *

■ 4. In § 760.1503, add paragraph (j) to read as follows.

§ 760.1503 Eligibility.

* * * * *

(j) Members of cooperative processors are not eligible for WHIP+ assistance for sugar beet losses.

§ 760.1508 [Amended]

■ 5. Amend § 760.1508 as follows:

■ a. In paragraph (c), remove the cross reference ''paragraph (b)(1)'' and add the cross reference ''paragraph (b)'' in its place; and

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■ b. In paragraph (f), remove the cross reference ''paragraph (b)(1)'' and add cross reference ''paragraph (e)'' in its place.

§ 760.1510 [Amended]

■ 6. In § 760.1510(a), remove the words ''a date that will be announced by the Deputy Administrator'' and add ''October 30, 2020'' in their place.

§ 760.1511 [Amended]

■ 7. In § 760.1511(a)(6), remove the cross reference ''paragraph (f)'' and add cross reference ''paragraph (g)'' in its place.

■ 8. Add subpart R, consisting of §§ 760.1800 through 760.1814, to read as follows:

Subpart R—Quality Loss Adjustment Program

Sec.

760.1800 Applicability.
760.1801 Administration.
760.1802 Definitions.
760.1803 Participant eligibility.
760.1804 Eligibility of affected production.
760.1805 Qualifying disaster events.
760.1806 Ineligible losses.
760.1807 Miscellaneous provisions.
760.1808 General provisions.
760.1809 Payment and adjusted gross income limitation.
760.1810 Time and method of application.
760.1811 Required documentation and verification.
760.1812 Payment calculation.
760.1813 Availability of funds and timing of payments.
760.1814 Requirement to purchase crop insurance or NAP coverage.

§ 760.1800 Applicability.

This subpart specifies the terms and conditions for the Quality Loss Adjustment (QLA) Program. The QLA Program provides disaster assistance for crop quality losses that were a consequence of hurricanes, excessive moisture, floods, qualifying drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.

§ 760.1801 Administration.

(a) The QLA Program is administered under the general supervision of the Administrator, Farm Service Agency (FSA), and the Deputy Administrator for Farm Programs, FSA. The QLA Program is carried out by FSA State and county committees with instructions issued by the Deputy Administrator.

(b) FSA State and county committees, and representatives and their employees, do not have authority to modify or waive any of the provisions of the regulations in this subpart or instructions issued by the Deputy Administrator.

(c) The FSA State committee will take any action required by the regulations in this subpart that the FSA county committee has not taken. The FSA State committee will also:

(1) Correct, or require an FSA county committee to correct, any action taken by the FSA county committee that is not in accordance with the regulations in this subpart; or

(2) Require an FSA county committee to withhold taking any action that is not in accordance with this subpart.

(d) No delegation to an FSA State or county committee precludes the FSA Administrator or the Deputy Administrator from determining any question arising under this subpart or from reversing or modifying any determination made by an FSA State or county committee.

(e) The Deputy Administrator has the authority to:

(1) Permit State and county committees to waive or modify a non-statutory deadline specified in this subpart; and

(2) Delegate authority to FSA State or county committees to make determinations under § 760.1812(f) and (g).

(f) Items of general applicability to program participants, including, but not limited to, application periods, application deadlines, internal operating guidelines issued to FSA State and county offices, prices, and payment factors established under this subpart, are not subject to appeal in accordance with part 780 of this chapter.

§ 760.1802 Definitions.

The following definitions apply to this subpart. The definitions in §§ 718.2 and 1400.3 of this title also apply, except where they conflict with the definitions in this section. In the event of conflict, the definitions in this section apply.

Affected production means the producer's ownership share of harvested production of an eligible crop, adjusted to standard moisture as established by the U.S. Grains Standards Act, a State regulatory agency, or industry standard, that had both:

(1) A quality loss due to a qualifying disaster event; and

(2) At least a 5 percent quality loss due to all eligible disaster events.

Average market price means the average market price determined according to § 1437.12 of this title.

Coverage level means the percentage determined by multiplying the elected yield percentage under a crop insurance policy or NAP coverage by the elected price percentage.

Crop insurance means an insurance policy reinsured by FCIC under the provisions of the Federal Crop Insurance Act, as amended. It does not include private plans of insurance.

Crop insurance indemnity means, for the purpose of this subpart, the payment to a participant for crop losses covered under crop insurance administered by RMA in accordance with the Federal Crop Insurance Act (7 U.S.C. 1501–1524).

Crop year means:

(1) For insurable crops, the crop year as defined according to the applicable crop insurance policy; and

(2) For NAP-eligible crops, the crop year as defined in § 1437.3 of this title.

Eligible crop means a crop for which coverage was available either from FCIC under part 400 of this title, or through NAP under § 1437.4 of this title.

Eligible disaster event means a disaster event that is an eligible cause of loss specified in § 1437.10 of this title, excluding insect infestation.

FCIC means the Federal Crop Insurance Corporation, a wholly owned Government Corporation of USDA, administered by RMA.

FSA means the Farm Service Agency, an agency of USDA.

Grading factor means a factor that describes the physical condition or a feature that is evaluated to determine the quality of the production, such as broken kernels and low-test weight.

Good farming practices means the cultural practices generally recognized as compatible with agronomic and weather conditions and used for the crop to make normal progress toward maturity, as determined by FSA. These practices are:

(1) For conventional farming practices, those generally recognized by agricultural experts for the area, which could include one or more counties; or

(2) For organic farming practices, those generally recognized by the organic agricultural experts for the area or contained in the organic system plan that is in accordance with the National Organic Program specified in part 205 of this title.

Harvested means:

(1) For insurable crops, harvested as defined according to the applicable crop insurance policy;

(2) For NAP-eligible single harvest crops, that a crop has been removed from the field, either by hand or mechanically;

(3) For NAP-eligible crops with potential multiple harvests in 1 year or harvested over multiple years, that the producer has, by hand or mechanically, removed at least 1 mature crop from the field during the crop year; and

(4) For mechanically harvested NAP-eligible crops, that the crop has been

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removed from the field and placed in a truck or other conveyance, except hay is considered harvested when in the bale, whether removed from the field or not.

Insurable crop means an agricultural crop (excluding livestock) for which the producer on a farm is eligible to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501–1524).

Multiple market crop means a crop that is delivered to a single market but can have fresh and processed prices based on grading. For example, a producer may intend to sell all production of an apple crop as fresh production; however, based on grading of the crop at the market, the producer is compensated for some production at the fresh price and for some production at the processing price.

Multiple planting means the planting for harvest of the same crop in more than one planting period in a crop year on different acreage.

NAP means the Noninsured Crop Disaster Assistance Program under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) and part 1437 of this title.

NAP-eligible crop means an agricultural crop for which the producer on a farm is eligible to obtain NAP coverage.

NAP service fee means the amount specified in § 1437.7 of this title that the producer must pay to obtain NAP coverage.

Nutrient factor means a factor determined by a test that measures the nutrient value of a crop to be fed to livestock. Examples include, but are not limited to, relative feed value and total digestible nutrients.

Production means quantity of the crop produced, which is expressed in a specific unit of measure including, but not limited to, bushels or pounds.

QLA Program means the Quality Loss Adjustment Program.

Qualifying disaster event means a hurricane, flood, tornado, typhoon, volcanic activity, snowstorm, wildfire, excessive moisture, qualifying drought, or a related condition that occurred in the 2018 or 2019 calendar year.

Qualifying drought means an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year.

Quality loss means:

(1) For forage crops, a reduction in an applicable nutrient factor for the crop; and

(2) For crops other than forage, a reduction in the total dollar value of the crop due to reduction in the physical condition of the crop indicated by an applicable grading factor.

Related condition means damaging weather or an adverse natural occurrence that occurred as a direct result of a specified qualifying disaster event, such as excessive rain, high winds, flooding, mudslides, and heavy smoke, as determined by the Deputy Administrator. The term does not include insect infestation.

Reliable production record means evidence provided by the participant that is used to substantiate the amount of production reported when verifiable records are not available, including copies of receipts, ledgers of income, income statements of deposit slips, register tapes, invoices for custom harvesting, and records to verify production costs, contemporaneous measurements, truck scale tickets, and contemporaneous diaries that are determined acceptable by the FSA county committee. To determine whether the records are acceptable, the FSA county committee will consider whether they are consistent with the records of other producers of the crop in that area.

RMA means the Risk Management Agency, an agency of USDA.

Salvage value means the dollar amount or equivalent for the quantity of the commodity that cannot be marketed or sold in any recognized market for the crop.

Secondary use means the harvesting of a crop for a use other than the intended use.

Unit of measure means:

(1) For insurable crops, the FCIC-established unit of measure; and

(2) For NAP-eligible crops, the established unit of measure used for the NAP price and yield.

USDA means the U.S. Department of Agriculture.

U.S. Drought Monitor is a system for classifying drought severity according to a range of abnormally dry to exceptional drought. It is a collaborative effort between Federal and academic partners, produced on a weekly basis, to synthesize multiple indices, outlooks, and drought impacts on a map and in narrative form. This synthesis of indices is reported by the National Drought Mitigation Center at *http://droughtmonitor.unl.edu.*

Value loss crop has the meaning specified in subpart D of part 1437 of this title.

Verifiable documentation means evidence that can be verified by FSA through an independent source.

Verifiable percentage of loss is the percentage of loss determined by comparing the applicable nutrient factors for a producer's affected production of a forage crop with the average of such nutrient factors from the 3 preceding crop years, as documented on FSA–899, Historical Nutritional Value Weighted Average Worksheet.

WHIP+ means the Wildfires and Hurricanes Indemnity Program Plus under subpart O of this part.

§ 760.1803 Participant eligibility.

(a) Participants will be eligible to receive a payment under this subpart only if they incurred a loss to an eligible crop due to a qualifying disaster event, as further specified in this subpart.

(b) To be an eligible participant under this subpart, a person or legal entity must be a:

(1) Citizen of the United States;

(2) Resident alien; for purposes of this subpart, resident alien means ''lawful alien'' (see § 1400.3 of this title);

(3) Partnership consisting solely of citizens of the United States or resident aliens; or

(4) Corporation, limited liability company, or other similar organizational structure organized under State law consisting solely of citizens or resident aliens of the United States.

(c) If any person who would otherwise be eligible to receive a payment dies before the payment is received, payment may be released as specified in § 707.3 of this chapter. Similarly, if any person or legal entity who would otherwise have been eligible to apply for a payment dies or is dissolved, respectively, before the payment is applied for, payment may be released in accordance with this subpart if a timely application is filed by an authorized representative. Proof of authority to sign for the deceased producer or dissolved entity must be provided. If a participant is now a dissolved general partnership or joint venture, all members of the general partnership or joint venture at the time of dissolution or their duly authorized representatives must sign the application. Eligibility of such participant will be determined, as it is for other participants, based upon ownership share and risk in producing the crop.

(d) An ownership share is required to be eligible for a payment under this subpart. Growers growing eligible crops under contract for crop owners are not eligible for a payment under this subpart unless the grower is also determined to have an ownership share of the crop. Any verbal or written contract that precludes the grower from having an ownership share renders the

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grower ineligible for payments under this subpart.

(e) A person or legal entity is not eligible to receive assistance under this subpart if FSA determines that the person or legal entity:

(1) Adopted any scheme or other device that tends to defeat the purpose of this subpart or any of the regulations applicable to this subpart;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination under any or all of the following: This subpart and parts 12, 400, 1400, and 1437 of this title.

(f) A person who is ineligible for crop insurance or NAP under § 400.458 or § 1437.16 of this title, respectively, for any year is ineligible for payments under this subpart for the same year.

(g) The provisions of § 718.11 of this chapter, providing for ineligibility for payments for offenses involving controlled substances, apply.

(h) As a condition of eligibility to receive payments under this subpart, the participant must have been in compliance with the Highly Erodible Land Conservation and Wetland Conservation provisions of part 12 of this title for the applicable crop year for which the producer is applying for benefits under this subpart, and must not otherwise be precluded from receiving payments under part 12, 400, 1400, or 1437 of this title or any law.

§ 760.1804 Eligibility of affected production.

(a) To be eligible for the QLA Program, an eligible crop's affected production must have suffered a quality loss due to a qualifying disaster event and had at least a 5 percent quality loss due to all eligible disaster events. Whether affected production of a crop had a 5 percent loss will be determined separately for crops with different crop types, intended uses, certified organic or conventional status, county, and crop year.

(b) Affected production of the following is not eligible for the QLA Program:

(1) Crops that were not grown commercially;

(2) Crops that were intended for grazing or were grazed;

(3) Crops not intended for harvest;

(4) Volunteer crops;

(5) Value loss crops;

(6) Maple sap;

(7) Honey;

(8) By-products resulting from processing or harvesting a crop, such as, but not limited to, cotton seed, peanut shells, wheat or oat straw, or corn stalks or stovers;

(9) First-year seeding for forage production;

(10) Immature fruit crops;

(11) Crops for which FCIC coverage or NAP coverage is unavailable;

(12) Multiple market crops for which the producer previously received a crop insurance indemnity or WHIP+ payment for a quality loss;

(13) Crops for which production used to calculate a crop insurance indemnity or WHIP+ payment was adjusted based on a comparison of the producer's sale price to FCIC established price;

(14) Crops that received a crop insurance indemnity, NAP payment, or WHIP+ payment based on the quantity of production that was considered unmarketable;

(15) Crops for which the producer previously received a crop insurance indemnity, NAP payment, or WHIP+ payment for which production was reported as salvage value or secondary use;

(16) Sugar beets for which a member of a cooperative processor received a payment through a cooperative agreement; and

(17) Crops that were destroyed.

(c) Only affected production from initial crop acreage will be eligible for a QLA Program payment, unless the provisions for subsequent crops in this section are met. All plantings of an annual or biennial crop are considered the same as a planting of an initial crop in tropical regions as defined in part 1437, subpart F, of this title.

(d) In cases where there is double cropped acreage, affected production of each crop may be eligible only if the specific crops are approved by the FSA State committee as eligible double cropping practices in accordance with procedures approved by the Deputy Administrator.

(e) Participants having affected production from multiple plantings may receive payments for each planting only if the planting meets the requirements of part 1437 of this title and all other provisions of this subpart are satisfied.

§ 760.1805 Qualifying disaster events.

(a) A producer is eligible for payments under this subpart only if the producer's affected production of an eligible crop suffered a crop quality loss due to a qualifying disaster event.

(b) A crop quality loss due to a qualifying disaster event must have occurred on acreage that was physically located in a county that received a:

(1) Presidential Emergency Disaster Declaration authorizing public assistance for categories C through G or individual assistance due to a qualifying disaster event occurring in the 2018 or 2019 calendar years; or

(2) Secretarial Disaster Designation for a qualifying disaster event occurring in the 2018 or 2019 calendar years.

(c) A producer with a crop quality loss on acreage not physically located in a county that was eligible under paragraph (b) of this section will be eligible for the QLA Program for losses due to qualifying disaster events only if the producer provides supporting documentation from which the FSA county committee determines that the crop quality loss on the unit was reasonably related to a qualifying disaster event as specified in this subpart. Supporting documentation may include furnishing climatological data from a reputable source or other information substantiating the claim of loss due to a qualifying disaster event.

§ 760.1806 Ineligible losses.

(a) A loss is not eligible under this subpart if any of the following apply:

(1) The cause of loss is determined by FSA to be the result of poor management decisions, poor farming practices, or drifting herbicides;

(2) The loss could have been mitigated using good farming practices, including losses due to high moisture content that could be mitigated by following best practices for drying and storing the crop;

(3) The qualifying disaster event occurred after the crop was harvested;

(4) FSA or RMA have previously disapproved a notice of loss for the crop and disaster event, unless that notice of loss was disapproved solely because it was filed after the applicable deadline; or

(5) The cause of loss was due to:

(i) Conditions or events occurring outside of the applicable growing season for the crop;

(ii) Insect infestation;

(iii) Water contained or released by any governmental, public, or private dam or reservoir project if an easement exists on the acreage affected by the containment or release of the water;

(iv) Failure of a power supply or brownout; or

(v) Failure to harvest or market the crop due to lack of a sufficient plan or resources.

(b) [Reserved]

§ 760.1807 Miscellaneous provisions.

(a) All persons with a financial interest in a legal entity receiving payments under this subpart are jointly and severally liable for any refund, including related charges, that is determined to be due to FSA for any reason.

(b) In the event that any application under this subpart resulted from

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erroneous information or a miscalculation, the payment will be recalculated and any excess refunded to FSA with interest to be calculated from the date of the disbursement.

(c) Any payment to any participant under this subpart will be made without regard to questions of title under State law, and without regard to any claim or lien against the commodity, or proceeds, in favor of the owner or any other creditor except agencies of the U.S. Government. The regulations governing offsets and withholdings in part 3 of this chapter apply to payments made under this subpart.

(d) Any participant entitled to any payment may assign any payment(s) in accordance with regulations governing the assignment of payments in part 3 of this chapter.

(e) The regulations in parts 11 and 780 of this title apply to determinations under this subpart.

§ 760.1808 General provisions.

(a) Eligibility and payments under this subpart will be determined based on the county where the affected production was harvested.

(b) FSA county committees will make any necessary adjustments to the applicant's affected production and other information on the application form used to calculate a payment when the county committee determines:

(1) Additional documentation has been requested by FSA but has not been provided by the participant;

(2) The loss is due to an ineligible cause; or

(3) The participant has a contract providing a guaranteed payment for all or a portion of the crop.

(c) Unless otherwise specified, all eligibility provisions of part 1437 of this title also apply to tropical crops for eligibility under this subpart.

(d) FSA will use the most reliable data available at the time payments under this subpart are calculated. If additional data or information is provided or becomes available after a payment is issued, FSA will recalculate the payment amount and the producer must return any overpayment amount to FSA. In all cases, payments can only issue based on the payment formula for losses that affirmatively occurred.

(e) Production that is commingled between counties, crop years, or ineligible and eligible acres before it was a matter of record or combination of record and cannot be separated by using records or other means acceptable to FSA will be prorated to each respective year, county, or type of acreage, respectively.

§ 760.1809 Payment and adjusted gross income limitation.

(a) A person or legal entity, other than a joint venture or general partnership, is eligible to receive, directly or indirectly, payments of not more than $125,000 for each of the 2018, 2019, and 2020 crop years under this subpart.

(b) Payments made to a joint operation, including a joint venture or general partnership, cannot exceed the amount determined by multiplying the maximum payment amount specified in paragraph (a) of this section by the number of persons and legal entities, other than joint operations, that comprise the ownership of the joint operation.

(c) The direct attribution provisions in § 1400.105 of this title apply to payments under this subpart.

(d) The notification of interest provisions in § 1400.107 of this title apply to payments under this subpart.

(e) The provisions for recognizing persons added to a farming operation for payment limitation purposes as described in § 1400.104 of this title apply to payments under this subpart.

(f) The $900,000 average AGI limitation provisions in part 1400 of this title relating to limits on payments for persons or legal entities, excluding joint ventures and general partnerships, apply to each applicant for the QLA Program unless at least 75 percent of the person or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. A person's or legal entity's average AGI for each of the program years 2018, 2019 or 2020, is determined by using the average of the adjusted gross incomes for the 3 taxable years preceding the most immediately preceding taxable year. If the person's or legal entity's average AGI is below $900,000 or at least 75 percent of the person or legal entity's average AGI is derived from farming, ranching, or forestry-related activities, the person or legal entity, is eligible to receive payments under this subpart.

§ 760.1810 Time and method of application.

(a) A completed FSA–898, Quality Loss Adjustment (QLA) Program Application, must be submitted in person, by mail, email, or facsimile to any FSA county office by the close of business on March 5, 2020.

(b) An application submitted in accordance with paragraph (a) of this section is not considered valid and complete for issuance of payment under this subpart unless FSA determines all the applicable eligibility provisions have been satisfied and the producer has submitted all of following by March 19, 2020:

(1) Documentation required by § 760.1811;

(2) FSA–578, Report of Acreage, for all acreage for any crop for which payments under this subpart are requested;

(3) FSA–895, Crop Insurance and/or NAP Coverage Agreement; and

(4) For forage crops, FSA–899, Historical Nutritional Value Weighted Average Worksheet, if verifiable documentation of historical nutrient factors is available.

(c) In addition to the forms listed in paragraph (b) of this section, applicants must also submit all the following eligibility forms within 60 days from the date of signing the QLA Program application if not already on file with FSA:

(1) AD–1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation Certification;

(2) CCC–902 Automated, Farm Operating Plan for Payment Eligibility 2009 and Subsequent Program Years;

(3) CCC–941 Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information; and

(4) CCC–942 Certification of Income from Farming, Ranching and Forestry Operations, if applicable.

(d) Failure to submit all required forms by the applicable deadlines in paragraphs (b) and (c) of this section may result in no payment or a reduced payment.

(e) Application approval and payment by FSA does not relieve a participant from having to submit any form required, but not filed, according to this section.

(f) Once signed by a producer, the application is considered to contain information and certifications of and pertaining to the producer regardless of who entered the information on the application.

(g) The producer applying for payment under this subpart certifies the accuracy and truthfulness of the information provided in the application as well as any documentation filed with or in support of the application. All information is subject to verification or spot check by FSA at any time, either before or after payment is issued. Refusal to allow FSA or any agency of the USDA to verify any information provided will result in the participant's forfeiting eligibility for payment under this subpart. FSA may at any time, including before, during, or after processing and paying an application, require the producer to submit any additional information necessary to implement or determine any eligibility

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provision of this subpart. Furnishing information specified in this subpart is voluntary; however, FSA may choose not to act on the application or approve payment if the required information is not provided. Providing a false certification will result in ineligibility and can also be punishable by imprisonment, fines, and other penalties.

§ 760.1811 Required documentation and verification.

(a) If requested by FSA, an applicant must provide documentation that establishes the applicant's ownership share and value at risk in the crop.

(b) The applicant must provide acceptable documentation that is dated and contains all information required to substantiate the applicant's certification to the satisfaction of the FSA county committee. Verifiable documentation is required to substantiate the total dollar value loss and associated affected production, grading factors, and nutritional factors. FSA may verify the records with records on file at the warehouse, gin, or other entity that received or may have received the reported production. Reliable production records are required to substantiate the reported amount of affected production for applications not based on the total dollar value loss.

(c) To be considered acceptable, verifiable documentation for grain crops that were sold may come from any time between harvest and sale of the affected production, unless the FSA county committee determines the record is not representative of the condition within 30 days of harvest. For all other crops, the verifiable documentation must come from tests or analysis completed within 30 days of harvest, unless the FSA county committee determines that the record is representative of the condition of the affected production at time of harvest. Examples of acceptable records for purposes of this paragraph (c) include:

(1) Warehouse grading sheets;

(2) Settlement sheets;

(3) Sales receipts showing grade and price or disposition to secondary market due to quality; and

(4) Laboratory test results.

(d) For forage crops, producers must submit verifiable documentation showing the nutrient factors for the affected production. Producers must also submit verifiable documentation of the historical nutrient factors for the 3 preceding crop years if available. The nutrient factors that must be documented for a crop will determined by the FSA county committee based on the standard practice for the crop in that county.

(e) For all crops other than forage crops, producers must submit verifiable documentation of the total dollar value loss due to quality, if available, and verifiable documentation of grading factors due to quality.

(f) The participant is responsible for:

(1) Retaining, providing, and summarizing, at time of application and whenever required by FSA, the best available verifiable production records for the crop;

(2) Providing the information in a manner that can be easily understood by the FSA county committee; and

(3) Providing supporting documentation about the disaster event if the FSA county committee has reason to question the disaster event.

(e) Participants must provide all records for any production of a crop that is grown with an arrangement, agreement, or contract for guaranteed payment.

(f) Participants are required to retain documentation in support of their application for 3 years after the date of approval.

(g) Participants receiving QLA Program payments or any other person who furnishes such information to USDA must permit authorized representatives of USDA or the Government Accountability Office, during regular business hours, to enter the agricultural operation and to inspect, examine, and make copies of books, records, or other items for the purpose of confirming the accuracy of the information provided by the participant.

§ 760.1812 Payment calculation.

(a) Payments will be calculated separately for crops based on the crop type, intended use, certified organic or conventional status, county, and crop year.

(b) For forage crops with verifiable documentation of nutrient factors for the affected production and for the 3 preceding crop years, the payment will be equal to the producer's total affected production multiplied by the producer's verifiable percentage of loss, multiplied by the average market price, multiplied by 70 percent.

(c) For forage crops with verifiable documentation of nutrient factors for the affected production but not for the 3 preceding crop years, the payment will be equal to the producer's total affected production multiplied by the county average percentage of loss in paragraph (f) of this section, multiplied by the average market price, multiplied by 70 percent, multiplied by 50 percent.

(d) For crops other than forage with verifiable documentation of the total dollar value loss due to quality, the payment will be equal to the producer's total dollar value loss on the affected production, multiplied by 70 percent.

(e) For crops other than forage without verifiable documentation of the total dollar value loss but with verifiable documentation of grading factors, the payment will be equal to the producer's affected production multiplied by the county average loss per unit of measure in paragraph (g) of this section, multiplied by 70 percent, multiplied by 50 percent.

(f) The county average percentage of loss is the average percentage of loss from producers eligible for payment under paragraph (b) of this section if at least 5 producers in a county are eligible for payment for a crop under paragraph (b) of this section. If less than 5 producers in a county are eligible for payment for a crop under paragraph (b) of this section, the Deputy Administrator will:

(1) Determine a county average percentage of loss based on the best available data, including, but not limited to, evidence of losses in contiguous counties; or

(2) If a county average percentage of loss cannot be determined due to insufficient data, not issue payments to applicants under paragraph (c) of this section.

(g) The county average loss per unit of measure is based on the weighted average sales price from producers eligible for payment under paragraph (d) of this section if at least 5 producers in a county are eligible for payment for a crop under paragraph (d) of this section. If less than 5 producers are eligible for payment in a county under paragraph (d) of this section, the Deputy Administrator will:

(1) Determine a county average loss per unit of measure based on the best available data, including, but not limited to, evidence of losses in contiguous counties; or

(2) If a county average loss per unit of measure cannot be determined due to insufficient data, not issue payments to applicants under paragraph (e) of this section.

§ 760.1813 Availability of funds and timing of payments.

(a) Payments will be issued after the application period has ended and all applications have been reviewed by FSA.

(b) In the event that, within the limits of the funding made available by the Secretary, approval of eligible applications would result in payments

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in excess of the amount available, FSA will prorate payments by a national factor to reduce the payments to an amount that is less than available funds as determined by the Secretary.

(c) Applications and claims that are unpaid or prorated for any reason will not be carried forward for payment under other funds for later years or otherwise, but will be considered, as to any unpaid amount, void and nonpayable.

§ 760.1814 Requirement to purchase crop insurance or NAP coverage.

(a) For the first 2 consecutive crop years for which crop insurance or NAP coverage is available after the enrollment period for the QLA Program ends, a participant who receives payment under this subpart for a crop loss in a county must obtain:

(1) For an insurable crop, crop insurance with at least a 60 percent coverage level for that crop in that county; or

(2) For a NAP-eligible crop, NAP coverage with a coverage level of 60 percent.

(b) Participants who exceed the average adjusted gross income limitation for NAP payment eligibility [1] for the applicable crop year may meet the purchase requirement specified in paragraph (a)(2) of this section by purchasing Whole-Farm Revenue Protection crop insurance coverage, if eligible, or paying the NAP service fee and premium even though the participant will not be eligible to receive a NAP payment due to the average adjusted gross income limit.

(c) The final crop year to purchase crop insurance or NAP coverage to meet the requirements of paragraph (a) of this section is the 2023 crop year.

(d) A participant who obtained crop insurance or NAP coverage for the crop in accordance with the requirements for WHIP+ in § 760.1517 is considered to have met the requirement to purchase crop insurance or NAP coverage for the QLA Program.

(e) If a producer fails to obtain crop insurance or NAP coverage as required in this section, the producer must reimburse FSA for the full amount of QLA Program payment plus interest. A producer will only be considered to have obtained NAP coverage for the purposes of this section if the participant submitted a NAP application for coverage and paid the requisite NAP service fee and any applicable premium by the applicable deadline and completed all program requirements required under the coverage agreement, including filing an acreage report.

Richard Fordyce,

Administrator, Farm Service Agency.

[FR Doc. 2020–28914 Filed 1–5–21; 8:45 am]

BILLING CODE 3410–05–P

[1] See §§ 1400.500(a) and 1400.1(a)(4) of this title.

DEPARTMENT OF ENERGY

10 CFR Part 1061

RIN 1990–AA50

Procedures for the Issuance of Guidance Documents

AGENCY: Office of the General Counsel, Department of Energy.

ACTION: Final rule.

SUMMARY: The U.S. Department of Energy (DOE) publishes this final rule to establish procedures for the issuance of DOE guidance documents in accordance with Executive Order 13891. In this final rule, DOE establishes internal agency requirements for the contents of guidance documents, and procedures for providing notice of, and soliciting public comment on, certain guidance documents. This final rule also establishes procedures for the public to petition DOE to modify or withdraw guidance documents.

DATES: The effective date of this rule is February 5, 2021.

ADDRESSES: The docket for this rulemaking, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *https://www.regulations.gov*. All documents in the docket are listed in the *https://www.regulations.gov* index. However, not all documents listed in the index, such as those containing information that is exempt from public disclosure by law, may be publicly available. A link to the docket web page can be found at *https://www.regulations.gov/document?D=DOE-HQ-2020-0033-0001*. The docket web page explains how to access all documents, including public comments, in the docket.

FOR FURTHER INFORMATION CONTACT: Mr. Matthew Ring, U.S. Department of Energy, Office of the General Counsel, Forrestal Building, GC–33, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–2555, Email: *Guidance@hq.doe.gov*.

SUPPLEMENTARY INFORMATION:

I. Summary of Final Rule

In this final rule, DOE incorporates into the Code of Federal Regulations a new 10 CFR part 1061, which implements the requirements of Executive Order 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents.'' (84 FR 55235 (Oct. 15, 2019)) Among other things, Executive Order 13891 requires agencies to provide more transparency for their guidance documents by creating a searchable online database for current guidance documents,[1] and by establishing procedures to allow the public to comment on significant guidance documents and to petition the agency to withdraw or modify guidance documents.[2] Moreover, the Executive Order requires agencies to clearly state in their guidance documents that such guidance does not have the force and effect of law and is not legally binding, except as authorized by law or as incorporated into a contract. (84 FR 55235, 55237)

This final rule applies to all DOE guidance documents, as defined by Executive Order 13891, including the exceptions listed in section 2 of the Executive Order. This final rule also lists specific types of documents and communications that fall within the broader exceptions listed in the Executive Order (*e.g.,* speeches and presentations given by DOE officials, legal positions taken in litigation or enforcement actions). (See also OMB M–20–02, Guidance Implementing Executive Order 13891, Titled ''Promoting the Rule of Law Through Improved Agency Guidance Documents'' (Oct. 31, 2019), available at *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*). This final rule also adopts the same definition of ''significant guidance document'' as section 2 of Executive Order 13891.

In accordance with Executive Order 13891, this final rule requires that all DOE guidance documents clearly state that they do not have the force and effect of law and are not legally binding on the public, and that they are only intended to provide clarity to the public

[1] DOE's online database may be found at *energy.gov/guidance*.

[2] Executive Order 13891 defines ''significant guidance document'' as ''a guidance document that may reasonably be anticipated to: (i) Lead to an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (ii) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (iii) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (iv) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles of Executive Order 12866.'' (84 FR 55235, 55236)

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An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

Elizabeth K. Appel,

Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2021–00317 Filed 1–8–21; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–OIA–31249; PIN00IO14.XI0000]

U.S. Nominations to the World Heritage List; 15-Day Notice of Opportunity for Public Comment

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: This notice requests public comment on the next potential U.S. nominations from the U.S. World Heritage Tentative List (''Tentative List'') to the United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage List. The public may also make suggestions for future additions to the Tentative List. This notice complies with applicable World Heritage Program regulations.

DATES: Comments will be accepted on or before January 26, 2021.

ADDRESSES: You may submit comments by either of the following methods:

- *Mail to:* Jonathan Putnam, Office of International Affairs, National Park Service, 1849 C Street NW, Washington, DC 20240.
- *Email to: jonathan_putnam@nps.gov*. Phone: (202) 354–1809.

Comments will not be accepted in any way other than those specified above.

Information on the U.S. World Heritage program can be found at: *https://www.nps.gov/subjects/internationalcooperation/worldheritage.htm*.

To request a paper copy of the U.S Tentative List, please contact April Brooks, Office of International Affairs, National Park Service, 1849 C Street NW, Room 2415, Washington, DC 20240 (202) 354–1808, or Email: *april_brooks@nps.gov*.

FOR FURTHER INFORMATION CONTACT: Jonathan Putnam, (202) 354–1809.

For the World Heritage nomination format, see the World Heritage Centre website at: *http://whc.unesco.org/en/nominations*.

SUPPLEMENTARY INFORMATION:

Background

The World Heritage List is an international list of cultural and natural properties nominated by the signatories to the World Heritage Convention (1972), an international treaty for the preservation of natural and cultural heritage sites of global significance. U.S. participation and the roles of the Department of the Interior and the National Park Service are authorized by Title IV of the Historic Preservation Act Amendments of 1980 and conducted in accordance with 36 CFR part 73—World Heritage Convention. The National Park Service serves as the principal technical agency for the U.S. Government to the Convention.

A Tentative List is a national list of natural and cultural properties appearing to meet the World Heritage Committee eligibility criteria for nomination to the World Heritage List. It is a list of candidate sites which a country may consider for nomination within a given time period, but does not guarantee future nomination. The World Heritage Committee's *Operational Guidelines* ask participating nations to provide Tentative Lists, which aid in evaluating properties for the World Heritage List on a comparative international basis and help the Committee to schedule its work over the long term. A country cannot nominate a property unless it has been on its Tentative List for a minimum of a year. Countries also are limited at this time to nominating no more than one site in any given year.

Neither inclusion in the Tentative List nor inscription as a World Heritage Site imposes legal restrictions on owners or neighbors of sites, nor does it give the United Nations any management authority or ownership rights in U.S. World Heritage Sites, which continue to be subject to U.S. laws.

Current U.S. World Heritage Tentative List

The current U.S. World Heritage Tentative List includes the following properties:

Cultural Sites

Civil Rights Movement Sites, Alabama [other properties would be added for a complete nomination]

—Dexter Avenue King Memorial Baptist Church, Montgomery
—Bethel Baptist Church, Birmingham
—16th Street Baptist Church, Birmingham

Dayton Aviation Sites, Ohio

—Dayton Aviation Heritage National Historical Park

Hopewell Ceremonial Earthworks, Ohio

—Fort Ancient State Memorial, Warren County
—Hopewell Culture National Historical Park, near Chillicothe
—Newark Earthworks State Historic Site, Newark and Heath

Jefferson (Thomas) Buildings, Virginia (Proposed Jointly as an Extension to the World Heritage Listing of Monticello and the University of Virginia Historic District)

—Poplar Forest, Bedford County
—Virginia State Capitol, Richmond

Mount Vernon, Virginia

Serpent Mound, Ohio

Ellis Island, New Jersey and New York

Chicago Early Skyscrapers, Illinois, including: [Other Properties May Be Added in the Course of Developing a Nomination]

—Rookery
—Auditorium Building
—Monadnock Building
—Ludington Building
—Marquette Building
—Old Colony Building
—Schlesinger & Mayer (Carson, Pirie Scott) Department Store
—Second Leiter Building
—Fisher Building

Central Park, New York

Brooklyn Bridge, New York

Moravian Bethlehem District, Pennsylvania

Natural Sites

National Marine Sanctuary of American Samoa (Formerly Fagatele Bay National Marine Sanctuary, American Samoa)

Okefenokee National Wildlife Refuge, Georgia

Petrified Forest National Park, Arizona

White Sands National Monument, New Mexico

Marianas Trench National Monument, U.S. Territory, Commonwealth of the Northern Mariana Islands, Guam

Central California Current, California, Including

—Cordell Bank National Marine Sanctuary
—Monterey Bay National Marine Sanctuary
—Greater Farallones National Marine Sanctuary
—Farallon Islands National Wildlife Refuge

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NM-OTERO-21-0275-A-000637

—Point Reyes National Seashore
—Golden Gate National Recreation Area

Big Bend National Park, Texas

Pacific Remote Islands National Monument, U.S. Territorial Waters

Notes: (1) A nomination for the Hopewell Ceremonial Earthworks was authorized for preparation in May 2018 by the Department of the Interior and is now under development. (2) The Department has requested and is now awaiting advice from the International Council on Monuments and Sites (ICOMOS) on adding other properties to the proposal for the Civil Rights Movement Sites and its overall justification. (3) The government of the German state of Saxony is proposing an extension to the World Heritage listing of Christiansfeld, a Moravian Church Settlement in Denmark, that would include Herrnhut in Germany, the Moravian Bethlehem District in Bethlehem, Pennsylvania, and potentially other historic Moravian settlements in other countries.

Request for Public Comments

Comments on whether to authorize the preparation of a World Heritage nomination for any of the properties on the Tentative List should address the readiness and ability of the property owner(s) to prepare a satisfactory nomination document. Suggestions for additions to the Tentative List not previously submitted must address: (i) How the property(ies) would meet the World Heritage nomination criteria, requirements for authenticity, integrity, legal protection and management. Information on these criteria and requirements can be found on the website noted in the **FOR FURTHER INFORMATION CONTACT** section of this notice; and (ii) The U.S. legal prerequisites that include the agreement of all property owners to the nomination of their property, an official determination that the property is nationally significant (such as by designation as a National Historic or National Natural Landmark), and effective legal protection. All previous suggestions for the Tentative List made during previous comment periods or otherwise submitted since 2008, have been retained and considered and should not be resubmitted at this time.

Selection and Nomination

All public comments will be summarized and provided to Department of the Interior officials, who will obtain the advice of the Federal Interagency Panel for World Heritage before making any selection of properties for authorization to prepare a World Heritage nomination. The selection may include relevant factors, such as the likelihood of being able to complete a satisfactory nomination, and the fact that the United States is currently prohibited by law from providing any funding to UNESCO, including UNESCO and World Heritage member dues. Once authorized, the property owners may prepare a draft nomination.

The Department does not have a fixed schedule for completing or submitting World Heritage nominations. No more than one nomination from any country may be submitted per year, per the UNESCO World Heritage *Operational Guidelines.* Completed nominations, if approved by the Department for submission, may be submitted to the UNESCO World Heritage Centre by February 1 of any year.

Public Availability of Comments

All comments will be a matter of public record. Before including an address, phone number, email address, or other personal identifying information in a comment, members of the public should be aware that the entire comment—including personal identifying information—may be made public at any time. While commenters can request that personal identifying information be withheld from public review, it may not be possible to comply with this request.

Authority: 54 U.S.C. 307101; 36 CFR part 73.

George Wallace,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2021–00310 Filed 1–8–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#-31331; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before December 25, 2020, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by January 26, 2021.

ADDRESSES: Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line ''Public Comment on property or proposed district name, (County) State.'' If you have no access to email you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before December 25, 2020. Pursuant to Section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State or Tribal Historic Preservation Officers:

CALIFORNIA

Orange County

Johnson, Hugh Edgar, House, 444 W. Brookdale Pl., Fullerton, SG100006089

FLORIDA

Monroe County

Matecumbe Methodist Church Cemetery, 81801 Overseas Hwy., Islamorada, SG100006117

Pinellas County

House at 827 Mandalay Avenue, 827 Mandalay Ave., Clearwater, SG100006118

Sumter County

Wild Cow Prairie Cemetery, 5822 Cty. Rd. 673, Bushnell vicinity, SG100006119

Volusia County

Wright, James W., Building, 258 West Voorhis Ave., DeLand, SG100006120

Walton County

Herman Lodge No. 108 Free & Accepted Masons of Florida, 314 Madison St., Freeport, SG100006121

ILLINOIS

Cook County

Irving, James B., House, 2771 Crawford Ave., Evanston, SG100006102

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From: Jonna Lou Schafer <boredwell@dellcity.com>
Sent: Monday, January 11, 2021 9:20 PM EST
To: Couy Griffin <cgriffin@co.otero.nm.us>; Gerald Matherly <gmatherly@co.otero.nm.us>; Vickie Marquardt <vmarquardt@co.otero.nm.us>
CC: Pamela Heltner <pheltner@co.otero.nm.us>; Brian Muise <b.k.muise@gmail.com>; Gary Scarbrough <gary@dellcity.com>; Henerietta Stockel <hstockel@tularosa.net>; Jeff Stephan <pc1chap.nm@gmail.com>; Jeff Stephen <casadeosos.jeff@gmail.com>; Judy Medeiros <judymedeiros@msn.com>; Schafer <boredwell@dellcity.com>; Sidney Gordon <sgordon@nmsu.edu>; Twyla Lewis <tflewis@pvtn.net>; Walt Coffman <walt@pvtnetworks.net>
Subject: Fw: Linebery weekly email (federal register)
Attachment(s): "2020-28879.pdf","2020-28881.pdf","2020-28914.pdf","2021-00310.pdf"

FYI

From: Nicholas Ashcroft
Sent: Monday, January 11, 2021 7:03 PM
To:
Subject: Linebery weekly email (federal register)

2020-28879 - Council on Environmental Quality. Notice of online portal for agency guidance documents.

2020-28881- Council on Environmental Quality. Final rule.

2020-28914- Agricultural Disaster Indemnity Programs: Farm Service Agency (FSA), Department of Agriculture (USDA). Final rule.

2021-00310- U.S. Nominations to the World Heritage List; 15-Day Notice of Opportunity for Public Comment: National Park Service, Interior.

Nick Ashcroft
Natural Resource Policy Analyst
Linebery Policy Center for Natural Resource Management

nashcrof@nmsu.edu
575-646-5508 (office)

Confidential/Proprietary Note:
Access to this email by anyone other than the intended addressee is unauthorized. This e-mail, including all attachments is for the sole use of the intended recipients. Any unauthorized review, use, disclosure or distribution is prohibited unless specifically provided under the New Mexico Inspection of Public Records Act. If you are not the intended recipient, please reply to or forward a copy of this message to the sender and delete the message, any attachments, and any copies thereof from your system. Thank you.

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7910–00–685–6660—Pad, Machine, Scrubbing, Floor, 17″ x ¼″
7910–00–685–6671—Pad, Machine, Polishing, Floor, 15″ x ¼″
7910–00–685–6672—Pad, Machine, Polishing, Floor, 17″ x ¼″
7910–00–685–6686—Pad, Machine, Polishing, Floor, 12″ x ¼″
7910–00–685–6687—Pad, Machine, Polishing, Floor, 13″ x ¼″
7910–00–820–7989—Pad, Floor, Buffing, Nylon, Tan, 15″
7910–00–NIB–0006—Pad, Floor, Burnishing, Animal Hair, Gray, 17″
7910–00–NIB–0009—Pad, Floor, Burnishing, Animal Hair, Gray, 21″
7910–00–NIB–0016—Pad, Floor, Polishing, Animal Hair, Beige, 17″
7910–00–NIB–0029—Pad, Floor, Buffing, Polyester, Red, 14″
7910–00–NIB–0030—Pad, Floor, Buffing, Polyester, Red, 15″
7910–00–NIB–0034—Pad, Floor, Scrubbing, Polyester, Blue, 14″
7910–00–NIB–0040—Pad, Floor, Scrubbing, Polyester, Blue, 21″
7910–01–512–5933—Pad, Floor, Stripping, Polyester, Brown, 17″
7910–01–512–5937—Pad, Floor, Scrubbing, Polyester, Blue, 13″
7910–01–512–5950—Pad, Floor, Scrubbing, Polyester, Blue, 17″

Designated Source of Supply: Beacon Lighthouse, Inc., Wichita Falls, TX
Contracting Activity: GSA/FSS Greater Southwest ACQUISITI, Fort Worth, TX

Michael R. Jurkowski,

Deputy Director, Business & PL Operations.

[FR Doc. 2021–00151 Filed 1–7–21; 8:45 am]

BILLING CODE 6353–01–P

COUNCIL ON ENVIRONMENTAL QUALITY

Guidance Document Online Portal

AGENCY: Council on Environmental Quality.

ACTION: Notice of online portal for agency guidance documents.

SUMMARY: In accordance with Executive Order (E.O.) 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' dated October 9, 2019, and Office of Management and Budget (OMB) Memorandum M–20–02, dated October 31, 2019, the Council on Environmental Quality (CEQ) is providing notice of where the public may access CEQ guidance documents.

ADDRESSES: The portal may be found at *https://www.whitehouse.gov/ceq/resources/*.

FOR FURTHER INFORMATION CONTACT: Amy B. Coyle, Deputy General Counsel, Council on Environmental Quality, 730 Jackson Place NW, Washington, DC 20503, 202–395–5750, *amy.b.coyle@ceq.eop.gov*.

SUPPLEMENTARY INFORMATION: E.O. 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' [1] requires that each agency establish or maintain on its website a single, searchable, indexed database that contains or links to all agency guidance documents [2] in effect. In accordance with E.O. 13891 and OMB's implementing guidance, set forth in OMB Memorandum M–20–02,[3] CEQ has complied with this requirement through its website portal, which is available to the public at *whitehouse.gov/ceq/resources*.[4] As required by E.O. 13891, the website also reiterates that: (1) The contents of the guidance documents accessed through the portal lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract; and (2) these documents are intended only to provide clarity to the public regarding existing requirements under statutes and regulations administered by CEQ. Under the E.O., CEQ may not cite, use, or rely on any guidance document that is not posted on or linked to the website portal, except to establish historical facts.

CEQ will also include on its website portal a link to its final rule establishing CEQ's internal agency procedures for issuing guidance documents, required by section 4 of E.O. 13891. The final rule relating to CEQ's guidance document procedures is published elsewhere in this issue of the **Federal Register**.

Authority: 42 U.S.C. 4321–4347; 42 U.S.C. 4371–4375; and E.O. 13891, 84 FR 55235.

Mary B. Neumayr,

Chairman.

[FR Doc. 2020–28879 Filed 1–7–21; 8:45 am]

BILLING CODE 3125–F1–P

[1] 84 FR 55235 (Oct. 15, 2019).

[2] E.O. 13891 defines ''guidance document'' as ''an agency statement of general applicability, intended to have future effect on the behavior of regulated parties, that sets forth a policy on a statutory, regulatory, or technical issue, or an interpretation of a statute or regulation. . . .'' *Id.*

[3] OMB issued its guidance memorandum on October 31, 2019. *See* M–20–02, Guidance Implementing Executive Order 13891, Titled ''Promoting the Rule of Law Through Improved Agency Guidance Documents'' (Oct. 31, 2019), *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*.

[4] CEQ's website portal at *https://www.whitehouse.gov/ceq/resources/* includes links to CEQ guidance documents and resources, some of which are provided on nepa.gov (*https://www.energy.gov/nepa/ceq-guidance-documents*) and sustainability.gov (*https://www.sustainability.gov/resources.html*).

DEPARTMENT OF EDUCATION

[Docket No. ED–2020–SCC–0167]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before February 8, 2021.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Find this information collection request by selecting ''Department of Education'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox. Comments may also be sent to *ICDocketmgr@ed.gov*.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, (202) 377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note

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PART 220—[REMOVED]

■ Accordingly, for the reasons stated in the preamble and under the authority of 5 U.S.C. 301, the Corps removes 33 CFR part 220.

R.D. James,

Assistant Secretary of the Army (Civil Works).

[FR Doc. 2020–27908 Filed 1–7–21; 8:45 am]

BILLING CODE 3720–58–P

COUNCIL ON ENVIRONMENTAL QUALITY

40 CFR Part 1519

RIN 0331–AA04

Guidance Document Procedures

AGENCY: Council on Environmental Quality.

ACTION: Final rule.

SUMMARY: Pursuant to Executive Order (E.O.) 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' this final rule establishes the process that the Council on Environmental Quality (CEQ) will follow for issuing guidance documents. E.O. 13891 requires Federal agencies to finalize regulations or amend existing regulations to establish processes and procedures for issuing guidance documents.

DATES: This rule is effective January 8, 2021.

FOR FURTHER INFORMATION CONTACT: Amy B. Coyle, Deputy General Counsel, Council on Environmental Quality, 730 Jackson Place NW, Washington, DC 20503, (202) 395–5750, *amy.b.coyle@ceq.eop.gov*.

SUPPLEMENTARY INFORMATION:

On October 9, 2019, President Trump issued E.O. 13891,[1] which addresses the development, use, and public availability of agency guidance documents. It requires agencies to promulgate or update existing regulations setting forth their procedures for issuing guidance documents. In accordance with section 6 of E.O. 13891, on October 31, 2019, the Office of Management and Budget (OMB) issued memorandum M–20–02, ''Guidance Implementing Executive Order 13891, Titled 'Promoting the Rule of Law Through Improved Agency Guidance Documents' '' (OMB M–20–02)[2] to provide guidance and implement the Executive order. OMB M–20–02 provides agencies with additional instruction on how to implement E.O. 13891, including the required rulemaking.

I. Summary of Final Rule

In this final rule, CEQ adds a new part 1519 to the Code of Federal Regulations to set out its procedures for the development and issuance of guidance documents consistent with the direction and reflecting the policies described in E.O. 13891 and OMB M–20–02.

A. Section 1519.1, ''Purpose''

Section 1519.1, ''Purpose,'' states that the purpose of part 1519 is to implement E.O. 13891, and explains CEQ's process for developing and issuing guidance.

B. Section 1519.2, ''Guidance Document Procedures''

Section 1519.2, ''Guidance document procedures,'' defines ''guidance documents'' in paragraph (a) and describes documents that do not meet that definition in paragraph (b), consistent with section 2(b)[3] of the E.O. and Q2 of OMB M–20–02.

Paragraph (c) of § 1519.2 lists the minimum requirements for any document meeting the definition of a guidance document consistent with Q22 of OMB M–20–02, including a title, unique identification number, date, indication of whether it revises or replaces prior guidance, summaries, and legal citations. Additionally, consistent with section 4(i) of E.O. 13891, paragraph (c)(6) includes a requirement that each guidance document clearly state that it does not bind the public, except as authorized by law or as incorporated into a contract.

Paragraph (c)(11) of § 1519.2 specifies that any guidance document must be posted on CEQ's website. E.O. 13891 also directed Federal agencies to make guidance documents publicly available in an indexed, searchable database online. As described in the **Federal Register** notice published today, CEQ has complied with this requirement through its website *whitehouse.gov/ceq/resources*.[4] As noted on this website, CEQ may not cite, use, or rely on any guidance that is not posted on its web pages except to establish historical facts. CEQ also makes clear that CEQ's guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract.

Finally, paragraph (d) of § 1519.2 requires the CEQ Office of the General Counsel to review and clear all guidance documents before CEQ issues them.

C. Section 1519.3, ''Procedures for the Public To Request Withdrawal or Modification of a Guidance Document''

Consistent with section 4(ii) of E.O. 13891, § 1519.3, ''Procedures for the public to request withdrawal or modification of a guidance document,'' addresses the process for members of the public to petition CEQ to withdraw or modify a particular guidance document, including designation of the Office of the General Counsel as the office within CEQ to which the public should direct such petitions. CEQ intends to provide additional instructions on its guidance website, including appropriate contact information and format of the petitions.

D. Section 1519.4, ''Significant Guidance Documents''

Finally, § 1519.4, ''Significant guidance documents,'' addresses specific requirements for a subset of ''guidance documents'' that are ''significant guidance documents'' as defined by section 2(c) of E.O. 13891. Paragraph (a) sets forth that definition. OMB's Office of Information and Regulatory Affairs (OIRA) makes the final determination of whether a guidance document is significant. If OIRA makes such a determination for a particular guidance document, this section will also apply. Consistent with section 4(iii) of E.O. 13891, paragraph (b) sets forth procedural requirements, including public notice and comment for at least 30 days, unless an exception applies; public response to major concerns raised in comments; approval on a non-delegable basis by the Chairman, or an official acting as Chairman; review by OIRA under Executive Order 12866; and compliance with the applicable requirements for regulations or rules.

II. Rulemaking Analyses and Notices

A. Regulatory Procedures

Under the Administrative Procedure Act, an agency may waive notice and comment procedures if an action is an interpretative rule, a general statement of policy, or a rule of agency organization, procedure, or practice. *See* 5 U.S.C. 553(b)(A). This rule describes the internal process that CEQ will follow to comply with the requirements specified in E.O. 13891 when issuing guidance documents as defined by the

[1] 84 FR 55235 (Oct. 15, 2019).

[2] OMB M–20–02 is available at *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*.

[3] E.O. 13891 section 2(b) lists the following as exclusions to the definition of guidance document. 84 FR at 55235–36.

[4] CEQ's website, *whitehouse.gov/ceq/resources*, includes links to CEQ guidance documents and resources, some of which are provided on *nepa.gov* and *sustainability.gov*.

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E.O. Because this rule is one of agency organization, procedure, or practice, it is exempt from the requirement to provide prior notice and opportunity for public comment.

B. Regulatory Planning and Review (E.O. 12866 and E.O. 13563)

E.O. 12866 provides that OIRA will review all significant rules. E.O. 13563 reaffirms the principles of E.O. 12866, calling for improvements in the Federal government's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory objectives. OMB determined that this final rule does not meet the requirements for a significant regulatory action under E.O. 12866, as supplemented by E.O. 13563, and therefore it was not subject to review.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, as amended (RFA), 5 U.S.C. 601 *et seq.,* and E.O. 13272 do not apply to this rulemaking because it is not subject to the notice and comment requirements of 5 U.S.C. 553(b).

D. Unfunded Mandates Reform Act

A statement containing the information required by the Unfunded Mandates Reform Act, 2 U.S.C. 1531 *et seq.,* is not required. This rule will not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year, and it will not have a significant or unique effect on State, local, or Tribal governments, or the private sector.

E. Reducing Regulation and Controlling Regulatory Costs (E.O. 13771)

This rule is not an E.O. 13771 regulatory action because this rule is not significant under E.O. 12866.

F. Federalism (E.O. 13132)

Under the criteria in section 1 of E.O. 13132, this rule will not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement because it will not substantially and directly affect the relationship between the Federal and State governments.

G. National Environmental Policy Act

The purpose of this rulemaking is to formalize the CEQ's administrative procedures for issuing guidance documents, as required by E.O. 13891. CEQ has determined that the final rule is a non-major Federal action under the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.,* and would not have any effect on the environment because it merely outlines internal CEQ administrative procedures and does not authorize any activity or commit resources to a project that may affect the environment.

H. Paperwork Reduction Act

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This rule will not impose recordkeeping or reporting requirements on State, local, or Tribal governments, individuals, businesses, or organizations.

List of Subjects in 40 CFR Part 1519

Administrative practice and procedure, Guidance.

Mary B. Neumayr,
Chairman.

■ For the reasons stated in the preamble, the Council on Environmental Quality adds 40 CFR part 1519 as follows:

PART 1519—GUIDANCE DOCUMENTS

Sec.
1519.1 Purpose.
1519.2 Guidance document procedures.
1519.3 Procedures for the public to request withdrawal or modification of a guidance document.
1519.4 Significant guidance documents.

Authority: 42 U.S.C. 4321–4347; 42 U.S.C. 4371–4375; and E.O. 13891, 84 FR 55235.

§ 1519.1 Purpose.

(a) This part implements Executive Order 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' and reflects the policies described in that order. The provisions in this part address the Council on Environmental Quality's procedures for the development and issuance of agency guidance documents. This part explains what constitutes guidance documents, and sets forth the minimum requirements for guidance documents, the procedures to request withdrawal or modification of guidance documents, and the additional requirements and procedures for significant guidance documents.

(b) This part is intended to improve the internal management of the Council on Environmental Quality. It is not intended to and does not create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its agencies or other entities, its officers or employees, or any other person.

(c) If Executive Order 13891 or any provision thereof is rescinded or superseded, this part remains in effect.

§ 1519.2 Guidance document procedures.

(a) *Definition of guidance documents.* For purposes of this part, guidance documents are agency statements of general applicability, intended to have future effect on the behavior of regulated parties, that set forth a policy on a statutory, regulatory, or technical issue, or an interpretation of a statute or regulation.

(b) *Documents excluded from the definition of guidance documents.* Guidance documents do not include:

(1) Agency statements of specific, rather than general, applicability.

(2) Agency statements that do not set forth a policy on a statutory, regulatory, or technical issue or an interpretation of a statute or regulation.

(3) Legislative rules promulgated under 5 U.S.C. 553 (or similar statutory provisions), or exempt from rulemaking requirements under 5 U.S.C. 553(a).

(4) Rules of agency organization, procedure, or practice that are not anticipated to have substantial future effect on the behavior of regulated parties or the public.

(5) Decisions of agency adjudication.

(6) Documents or agency statements that are directed solely to the Council on Environmental Quality or other agencies (or personnel of such agencies) that are not anticipated to have substantial future effect on the behavior of regulated parties or the public.

(7) Legal briefs and other court filings.

(8) Legal advice or opinions from the Council on Environmental Quality's Office of the General Counsel.

(9) Categories of guidance documents made exempt from Executive Order 13891 by the Administrator of the Office of Management and Budget's Office of Information and Regulatory Affairs through memoranda issued pursuant to section 4(b) of Executive Order 13891.

(c) *Elements of guidance documents.* In general, each guidance document must:

(1) Provide the title of the guidance document;

(2) Provide a unique document identification number;

(3) Identify the Council on Environmental Quality and any office, as appropriate, issuing the guidance document;

(4) Include the date of issuance;

(5) Include the term ''guidance'';

(6) Include a disclaimer clarifying that it does not have the force and effect of law; is not meant to bind the public in any way; and is intended only to provide clarity to the public regarding

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existing requirements under the law or agency policies. When a guidance document is binding because the law authorizes binding guidance or because a contract incorporates the guidance, the Council on Environmental Quality must modify the disclaimer to reflect accordingly;

(7) If it is a revision to or a replacement of a previously issued guidance document, identify the guidance document that it revises or replaces;

(8) Include a short summary of the subject matter covered in the guidance document at the top of the document;

(9) Identify the activities to which and the persons to whom the guidance document applies;

(10) Include the citation to the statutory provision or regulation to which the guidance document applies or which it interprets; and

(11) Be posted on the Council on Environmental Quality's website.

(d) *Review and clearance.* The Office of the General Counsel must review and clear all proposed guidance documents before issuance.

§ 1519.3 Procedures for the public to request withdrawal or modification of a guidance document.

(a) Any member of the public may petition the Council on Environmental Quality to withdraw or modify a guidance document.

(b) The petitioner must submit the request for the withdrawal or modification of a guidance document in writing to the Office of the General Counsel. The petition must contain a statement of the reasons for the petition and any supporting documents to support the petitioner's request.

(c) Upon receipt of a petition for withdrawal or modification of a guidance document, the Office of the General Counsel will consult with the relevant offices and coordinate the response to the petition.

(d) The Council on Environmental Quality should respond to a petition in writing, including electronically, within 90 days of receipt of a petition. The response should state whether the petition is granted, granted in part and denied in part, denied, or provisionally denied for lack of adequate information. If the petition is provisionally denied for lack of adequate information, the response should indicate what additional information is necessary to adjudicate the petition. The Office of the General Counsel should respond to the petition in writing no later than 90 days after receipt of the necessary additional information. The response should state whether the petition is granted, granted in part and denied in part, or denied.

(e) The Council on Environmental Quality may consider in a coordinated manner or provide a coordinated response to similar petitions for withdrawal or modification.

(f) The Council on Environmental Quality need not respond to petitions under this part for withdrawal or modification of documents that do not meet the definition of a guidance document.

§ 1519.4 Significant guidance documents.

(a) *Significant guidance documents definition.* For the purposes of this section, significant guidance documents are guidance documents that may be reasonably anticipated to:

(1) Lead to an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles of Executive Order 12866.

(b) *Actions the Council on Environmental Quality will take before issuing significant guidance documents.* When the Office of Management and Budget's Office of Information and Regulatory Affairs determines that a guidance document is a significant guidance document, the Council on Environmental Quality must:

(1) Submit the guidance document for review by the Office of Information and Regulatory Affairs under Executive Order 12866;

(2) Publish the draft significant guidance document in the **Federal Register** for a public notice and comment period of at least 30 days;

(i) This provision will not apply if the Council on Environmental Quality for good cause finds that notice and public comment is impracticable, unnecessary, or contrary to the public interest.

(ii) If such a finding is made, the Council on Environmental Quality must incorporate such a finding and a brief statement of its reasoning into the significant guidance document.

(3) Obtain approval on a non-delegable basis from the Chairman or an official who is serving in an acting capacity as the Chairman.

(4) Provide a public response to major concerns raised in comments on the draft significant guidance document.

(5) Announce the availability of the final significant guidance document.

(6) Comply with the applicable requirements for regulations or rules, including significant regulatory actions, set forth in Executive Orders 12866, ''Regulatory Planning and Review,'' 13563, ''Improving Regulation and Regulatory Review,'' 13609, ''Promoting International Regulatory Cooperation,'' 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' and 13777, ''Enforcing the Regulatory Reform Agenda.''

(c) *Exemption.* This section will not apply if the Chairman or an official who is serving in an acting capacity as the Chairman of the Council on Environmental Quality and the Administrator of the Office of Information and Regulatory Affairs agree that exigency, safety, health, or other compelling cause warrants an exemption from some or all requirements.

[FR Doc. 2020–28881 Filed 1–7–21; 8:45 am]

BILLING CODE 3225–F1–P

FEDERAL PERMITTING IMPROVEMENT STEERING COUNCIL

40 CFR Chapter IX

[Agency Docket Number 2020–001]

RIN 3121–AA01

Adding Mining as a Sector of Projects Eligible for Coverage Under Title 41 of the Fixing America's Surface Transportation Act

AGENCY: Federal Permitting Improvement Steering Council.

ACTION: Final rule.

SUMMARY: The Federal Permitting Improvement Steering Council (Permitting Council) has voted to add mining as a sector with infrastructure projects eligible for coverage under Title 41 of the Fixing America's Surface Transportation Act (FAST–41). A new part will be included in the Code of Federal Regulations that adds mining to the list of statutory FAST–41 sectors. The addition of mining as a FAST–41 sector will allow qualified mining infrastructure projects to become FAST–41 covered projects. FAST–41 coverage will help Federal agencies coordinate their environmental and project review efforts to improve the timeliness, efficiency, predictability, and transparency of the decision-making processes associated with covered

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Rules and Regulations

Federal Register
Vol. 86, No. 3
Wednesday, January 6, 2021

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 760

[Docket ID: FSA–2020–0011]

RIN 0560–AI55

Agricultural Disaster Indemnity Programs

AGENCY: Farm Service Agency (FSA), Department of Agriculture (USDA).

ACTION: Final rule.

SUMMARY: This rule establishes the Quality Loss Adjustment (QLA) Program to provide assistance to producers who suffered eligible crop quality losses due to hurricanes, excessive moisture, floods, drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. It also amends the provisions for the Wildfire and Hurricane Indemnity Program Plus (WHIP+) to be consistent with the Further Consolidated Appropriations Act, 2020, by adding excessive moisture and drought occurring in 2018 and 2019 as qualifying disaster events and clarifying eligibility of sugar beets. The changes to WHIP+ were self-enacting and were previously implemented by FSA.

DATES:

Effective date: January 6, 2021.

Comment due date: Comments are due by March 8, 2021.

ADDRESSES: We invite you to submit comments on this rule. You may submit comments by either of the following methods, although FSA prefers that you submit comments electronically through the Federal eRulemaking Portal:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and search for Docket ID FSA–2020–0011. Follow the instructions for submitting comments.
- *Mail:* Director, SND, FSA, U.S. Department of Agriculture, 1400 Independence Avenue SW, Stop 0522, Washington, DC 20250–0522. In your comment, specify the docket ID FSA–2020–0011.

Comments will be available for viewing online at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Kimberly Graham at (202) 720–6825 (voice); or by email at: *kimberly.graham@usda.gov*. Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice).

SUPPLEMENTARY INFORMATION:

Background

The Additional Supplemental Appropriations for Disaster Relief Act, 2019 (''Disaster Relief Act,'' Pub. L. 116–20) provided disaster assistance for necessary expenses related to losses of crops (including milk, on-farm stored commodities, crops prevented from planting in 2019, and harvested adulterated wine grapes), trees, bushes, and vines, as a consequence of hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. The Further Consolidated Appropriations Act, 2020 (Pub. L. 116–94), makes several changes to the provisions of the Disaster Relief Act, including:

- Specifying that assistance would be provided for crop quality losses;
- Adding excessive moisture as a qualifying disaster event;
- Adding drought as a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year; and
- Providing that sugar beet losses in 2018 and 2019 would be paid through cooperative processors (to be paid to producer members as determined by such processors).

This rule implements those provisions of the Further Consolidated Appropriations Act, 2020, by establishing the QLA Program to provide assistance for crop quality losses and amending the WHIP+ regulations to be consistent with the changes to qualifying disaster events and eligibility of sugar beet losses.

QLA Program

This rule establishes the QLA Program to provide disaster assistance for crop quality losses that were a consequence of hurricanes, excessive moisture, floods, qualifying drought, tornadoes, typhoons, volcanic activity, snowstorms, or wildfires occurring in calendar years 2018 and 2019. Eligible crops generally include crops for which FCIC crop insurance coverage or Noninsured Crop Disaster Assistance Program (NAP) coverage is available; however, value loss crops,[1] honey, and maple sap are not eligible. The QLA Program provides assistance for losses to crops that were sold or fed to livestock or are in storage; crops that were destroyed are not eligible. Assistance will be based on a producer's harvested affected production of an eligible crop that had a quality loss due to a qualifying disaster event and had at least a 5 percent quality loss due to all eligible disaster events.

Qualifying disaster events include hurricanes, floods, tornados, typhoons, volcanic activity, snowstorms, wildfires, excessive moisture, qualifying drought, and related conditions that occurred in the 2018 or 2019 calendar year. Assistance is available for eligible producers in counties that received a qualifying Presidential Emergency Disaster Declaration (declaration) or Secretarial Disaster Designation (designation) due to one or more of the qualifying disaster events or a related condition. As required by the Further Consolidated Appropriations Act, 2020, drought is only a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year (referred to as ''qualifying drought'' in this rule). Only producers in those counties that received a disaster declaration or designation qualify for the QLA Program based on the declaration or designation. Producers in counties that did not receive a qualifying declaration or designation may still apply; however, they must also provide supporting documentation to establish that the crop was directly affected by a qualifying disaster event and suffered the same

[1] Value loss crops include aquaculture, floriculture, mushrooms, ginseng root, ornamental nursery, sea grass and sea oats, Christmas trees, and turfgrass sod.

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minimum loss as required by a crop in a disaster declared or designated county. Lists of counties with Presidential Emergency Disaster Declarations and Secretarial Disaster Designations for all qualifying disaster events for 2018 and 2019 are available at *farmers.gov/quality-loss.*

FSA recognizes that a crop may suffer quality losses due to multiple disaster events in a single crop year, and the portion of a crop's quality loss that can be attributed to a specific disaster event may be difficult to determine. Therefore, while a qualifying disaster event must have caused at least a portion of the affected production's quality loss, FSA will consider the total quality loss caused by all eligible disaster events for eligibility and payment calculation purposes. Eligible disaster events for the QLA Program include those listed for NAP in 7 CFR 1437.10, except that the QLA Program does not cover losses due to insect infestation.

The QLA Program does not cover losses due to disaster events occurring after a crop was harvested or due to crop deterioration while in storage. Quality losses that could have been mitigated using good farming practices are not eligible. For example, if a producer's corn crop received a quality discount due to high moisture content, the producer could have mitigated that quality loss by using best practices for drying and storing the crop; therefore, that producer's quality loss due to high moisture is not eligible. The QLA Program does not provide assistance for losses that cannot be determined to have occurred or for losses for which a notice of loss was previously disapproved by FSA, RMA, or an approved insurance provider selling and servicing Federal crop insurance policies unless that notice of loss was disapproved solely because it was filed after the applicable deadline.

The QLA Program does not provide assistance for certain quality losses that were already compensated under a Federal crop insurance plan, NAP, or WHIP+. This includes losses to affected production of:

- Multiple market crops already compensated under crop insurance or WHIP+;
- Crops for which production used to calculate a crop insurance indemnity or WHIP+ payment was adjusted based on a comparison of the producer's sale price to the FCIC established price;
- Crops that received a crop insurance indemnity, NAP payment, or WHIP+ payment based on the quantity of production that was considered unmarketable; and
- Crops for which production was reported as salvage value or secondary use.

The QLA Program also excludes quality losses to sugar beets that were compensated through cooperative agreements with cooperative processors.

Affected production of a subsequent crop grown on double cropped acreage is only eligible if the crop has been approved as an eligible double cropping practice by the FSA State committee.

Application

FSA will accept QLA Program applications from January 6, 2021, through March 5, 2021. To apply, producers must submit a completed QLA Program application either in person, by mail, email, or facsimile to an FSA county office. To be eligible, a producer must submit a complete application, which includes all of the following:

- FSA–898, Quality Loss Adjustment (QLA) Program Application;
- FSA–899, Historical Nutritional Value Weighted Average Worksheet (only for forage crops with verifiable documentation of historical nutrient factors from the 3 preceding crop years);
- FSA–578, Report of Acreage;
- FSA–895, Crop Insurance and/or NAP Coverage Agreement; and
- Required documentation, as discussed below.

The FSA–578, FSA–895, and FSA–899 forms, and other required documentation must be submitted to the producer's county office by March 19, 2021.

If not already on file with FSA, producers must also submit the following eligibility forms for each crop year within 60 days of the date the producer signs the application:

- AD–1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification;
- CCC–902, Farm Operating Plan for Payment Eligibility;
- CCC–941 Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information; and
- CCC–942 Certification of Income from Farming, Ranching and Forestry Operations, if applicable.

Payments will not be made until all necessary eligibility documentation is received. Failure of an applicant to submit documentation timely may result in FSA not issuing a payment or, in the case of legal entities, a reduced payment if the required documentation for one or more members of the entity is not submitted timely.

Required Documentation

To support their applications, producers must submit documentation showing the quality loss and quantity of affected production by March 19, 2021. Documentation of the quality loss (total dollar value loss, grading factors, and nutrient factors, as applicable), must be verifiable. Verifiable documentation is documentation that can be verified by FSA through an independent source; FSA may verify the submitted records with records on file at the warehouse, gin, laboratory, or other entity that received or tested the reported production. Examples of acceptable, verifiable documentation include warehouse grading sheets, settlement sheets, sales receipts, and laboratory test results. Except for grain crops that have been sold, the documentation must be from laboratory tests or analysis completed within 30 days of harvest to be considered acceptable, unless the FSA county committee determines that the record is representative of the condition of the affected production within 30 days of harvest. For grain crops that were sold, the verifiable documentation can be from any time from harvest through the time of sale, unless the FSA county committee determines the record is not representative of the condition within 30 days of harvest. Producers who do not have acceptable, verifiable documentation are ineligible for the QLA Program.

For forage crops, all producers must submit verifiable documentation showing the nutrient factors for the affected production of the crop. Producers must also submit verifiable documentation of the historical nutrient factors for the 3 preceding crop years if available. The type of nutrient factors (such as relative feed value or total digestible nutrients) that must be documented for a particular crop will be determined by the FSA county committee based on the standard practice for the crop in that county. For all crops other than forage crops, producers must submit verifiable documentation of the total dollar value loss due to quality, if available, and verifiable documentation of grading factors due to quality.

Documentation to support the quantity of affected production included on the application must be verifiable for non-forage crops that receive a QLA payment based on the producer's total dollar value loss. For all other crops (non-forage crops without a producer's total dollar value loss and all forage crops), records to support the quantity of affected production must be reliable. Reliable production records means evidence provided by the participant that is used to substantiate the amount of production reported when verifiable

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records are not available, including copies of receipts, ledgers of income, income statements of deposit slips, register tapes, invoices for custom harvesting, and records to verify production costs, contemporaneous measurements, truck scale tickets, and contemporaneous diaries that are determined acceptable by the FSA county committee. To determine whether the records are acceptable, the FSA county committee will consider whether they are consistent with the records of other producers of the crop in that area.

Payment Calculation

QLA Program payments will be calculated using different formulas based on the type of crop (forage or non-forage) and based on the type of documentation submitted. All QLA payments, regardless of whether they are forage or non-forage, and the type of documentation submitted, will be calculated using a 70 percent payment factor. Payments calculated based on a county average loss, as described below, will be subject to an additional payment factor of 50 percent.

For forage crops with verifiable documentation of both the nutrient factors for the affected production and historical nutrient factors for the 3 preceding crop years, payment will be equal to the amount of the producer's total affected production multiplied by the producer's verifiable percentage of loss, multiplied by the average market price determined by FSA, multiplied by 70 percent. The producer's verifiable percentage of loss is determined by comparing the nutrient factor test results for the affected production to the average from the 3 preceding crop years, as documented on the FSA–899, Historical Nutritional Value Weighted Average Worksheet. The average market price for the QLA Program is the price used for NAP established according to 7 CFR 1437.12.

For forage crops with verifiable documentation of nutrient factors for the affected production but without historical nutrient factors for the 3 preceding crop years, the payment will be equal to the amount of the producer's total affected production multiplied by the county average percentage of loss, multiplied by the average market price determined by FSA, multiplied by 70 percent, multiplied by 50 percent.

For affected production of non-forage crops with verifiable documentation of the total dollar value loss due to quality, the QLA Program payment is equal to the producer's total dollar value loss on the affected production of the crop, multiplied by a payment factor of 70 percent.

For non-forage crops without verifiable documentation of a total dollar value loss but with verifiable documentation of grading factors due to quality, the payment will be equal to the amount of producer's affected production multiplied by the county average loss per unit of measure, multiplied by 70 percent, multiplied by 50 percent.

To determine the county average percentage of loss (for forage crops) or the county average loss per unit of measure (for non-forage crops), FSA will calculate the average loss for a crop based on losses of producers applying with verifiable documentation of historical nutritional factors (for forage crops) or the total dollar value loss (for non-forage crops) if at least 5 eligible producers submitted that documentation in the county. If less than 5 eligible producers in a county submit verifiable documentation of their historical nutritional factors or their total dollar value loss, FSA will determine a county average percentage of loss or county average loss per unit of measure based on the best available data, including losses of other QLA Program participants in contiguous counties. If sufficient data is still not available after considering other sources, FSA may determine that a county average cannot be calculated and producers in that county applying for payment under the applicable calculation are ineligible.

Payments for the QLA Program will not be issued until the application period has ended in order to allow FSA to determine the county average losses, as well as the total payments requested under the QLA Program. The Further Consolidated Appropriations Act, 2020 provides funding for the QLA Program to be available until December 31, 2021, in an amount equal to the remaining funds provided under the Bipartisan Budget Act of 2018 (Pub. L. 115–123) for losses due to Hurricanes Harvey, Irma, Maria, and other hurricanes and wildfires occurring in calendar year 2017,[2] and remaining funds provided under the Disaster Relief Act for losses due to Hurricanes Michael and Florence, other hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.[3] If the total amount of calculated QLA Program payments exceeds the amount of funding available, FSA will prorate all payments by a national factor.

A person or legal entity, other than a joint venture or general partnership, is eligible to receive, directly or indirectly, up to $125,000 per crop year in QLA Program payments. FSA will use the notification of interest provisions in 7 CFR 1400.107 and payment attribution provisions in 7 CFR 1400.105 for attributing and limiting payments to persons and legal entities. FSA will also use provisions in 7 CFR 1400.104 when changes in a farming operation result in an increase in persons to which payment limitation applies. Payments made to a joint operation (including a general partnership or joint venture) cannot exceed $250,000 per person or legal entity that comprise the ownership of the joint operation. Payments made to a legal entity will be reduced proportionately by an amount that represents the direct or indirect ownership in the legal entity by any person or legal entity that has otherwise reached the maximum payment limitation. These rules for attributing and limiting payments are consistent with the programs FSA administers on behalf of the Commodity Credit Corporation.

A person or legal entity, other than a joint venture or general partnership, is ineligible for a 2018, 2019, or 2020 payment if the person's or legal entity's average adjusted gross income (AGI) is more than $900,000, unless at least 75 percent of that person's or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. The average AGI for each of the program years 2018, 2019, or 2020, is determined using the average of the adjusted gross incomes for the 3 taxable years preceding the most immediately preceding taxable year. For example, for the 2019 program year, the producer's AGI would be based on the 2015, 2016, and 2017 tax years. If at least 75 percent of the person's or legal entity's AGI is derived from farming, ranching, or forestry-related activities and the participant provides the required certification and documentation, the person or legal entity is eligible to

[2] FSA provided assistance for losses due to Hurricanes Harvey, Irma, Maria, and other hurricanes and wildfires occurring in calendar year 2017 through the 2017 Wildfires and Hurricanes Indemnity Program (2017 WHIP) (final rule published July 18, 2018, 83 FR 33795–33809) and the Florida Citrus Recovery Grant Program.

[3] FSA has previously provided assistance for losses due to Hurricanes Michael and Florence, other hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019 through the Wildfires and Hurricanes Indemnity Program Plus (WHIP+), On-Farm Storage Loss Program, and Milk Loss Program (final rule published September 13, 2019, 84 FR 48518–48537), as well as through several grants and cooperative agreements with sugar beet cooperatives.

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receive QLA Program payments up to the applicable payment limitation noted above. With respect to joint ventures and general partnerships, this AGI provision will be applied to each member of the joint venture and general partnership.

Requirement to Purchase Crop Insurance or NAP Coverage

The Disaster Relief Act requires all participants who receive QLA Program payments to purchase crop insurance or NAP coverage for the next 2 available crop years. The latest year for meeting compliance with this provision will be the 2023 crop year. In other words, if the 2 consecutive years of coverage are not met by 2023 coverage year, the participant is ineligible for and must refund QLP Program payments. Participants must obtain crop insurance or NAP, as may be applicable, at the 60 percent coverage level or higher. In situations where crop insurance is unavailable for a crop, the Disaster Relief Act requires that a QLA Program participant obtain NAP coverage. Section 1001D of the Food Security Act of 1985 (1985 Farm Bill) provides that a person or entity with AGI in amount greater than $900,000 is not eligible to participate in NAP; however, producers with an AGI greater than $900,000 may be eligible for the QLA Program if at least 75 percent of that person's or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. Accordingly, in order to reconcile this restriction in the 1985 Farm Bill and the Disaster Relief Act's requirement to obtain NAP or crop insurance coverage, QLA Program participants may meet the Disaster Relief Act's purchase requirement by purchasing Whole-Farm Revenue Protection crop insurance coverage, if eligible, or they may pay the applicable NAP service fee and premium for the 60 percent coverage level despite their ineligibility for a NAP payment. In other words, the service fee and premium must be paid even though no NAP payment may be made because the AGI of the person or entity exceeds the 1985 Farm Bill limitation.

The crop insurance and NAP coverage requirements are specific to the crop and county (county where the crop is physically located for insurance and administrative county for NAP) for which QLA Program payments are paid. This means that a producer is required to purchase crop insurance or NAP coverage for the crop in the county for which the producer was issued a QLA Program payment. Producers who receive a payment on a crop in a county and who have the crop or crop acreage in subsequent years, as provided in this rule, and who fail to obtain the 2 years of crop insurance or NAP coverage must refund all QLA Program payments for that crop in that county with interest from the date of disbursement. This is a condition of payment eligibility specified by Disaster Relief Act and is therefore not subject to partial payment eligibility or other types of equitable relief. Producers who were paid under the QLA Program for a crop in a county but do not plant that crop in a subsequent year are not subject to the crop insurance or NAP purchase requirement. WHIP+ participants who already met the requirement to purchase crop insurance or NAP coverage as specified in 7 CFR 760.1517 are considered to have also met the requirement to purchase crop insurance or NAP coverage for QLA Program purposes, and they are not required to obtain additional years of crop insurance or NAP coverage as a result of also receiving a QLA Program payment for that crop.

Applicable general eligibility requirements, including recordkeeping requirements and required compliance with HELC and Wetland Conservation provisions, are similar to those for the previous ad hoc crop disaster programs and current permanent disaster programs. All information provided to FSA for program eligibility and payment calculation purposes, including production records, is subject to spot check.

WHIP+

FSA, on behalf of the Secretary of Agriculture, previously implemented provisions of the Disaster Relief Act by establishing WHIP+ through a final rule published on September 19, 2019 (84 FR 48518–48537). The Disaster Relief Act provided assistance for losses of crops, trees, bushes, and vines, as a consequence of hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. WHIP+ covers only production losses of crops except in specific circumstances discussed previously in this document when the producer may have also been compensated for quality losses.

This rule amends 7 CFR 760.1500(c) and the definition of ''qualifying disaster event'' in § 760.1502 to include excessive moisture and qualifying drought. As under the QLA Program, drought is only considered a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year. This rule adds definitions of ''qualifying drought'' and ''U.S. Drought Monitor'' in § 760.1502.

The addition of these qualifying disaster events for WHIP+ was self-enacting as the text in the law clearly specified the required changes without need for interpretation; therefore, FSA began the sign-up period for losses due to excessive moisture and qualifying drought on March 23, 2020, and sign-up ended on October 30, 2020. Producers applying for WHIP+ assistance for losses due to excessive moisture or qualifying drought were required to meet all requirements in 7 CFR part 760, subpart O, including the requirement to purchase crop insurance for 2 years as specified in § 760.1517.

The Further Consolidated Appropriations Act, 2020 also directed the Secretary to pay sugar beet losses in 2018 and 2019 through cooperative processors. FSA has established cooperative agreements with sugar beet processors; those processors will be responsible for distributing assistance to their members. This rule amends the eligibility provisions in § 760.1517 to specify that members of cooperatives are not eligible for a WHIP+ payment for sugar beet losses.

FSA is also updating § 760.1510(a) to reflect the application deadline of October 30, 2020, and correcting references in §§ 760.1508(c) and (f) and 760.1511(a)(6).

Notice and Comment and Effective Date

The Administrative Procedure Act (5 U.S.C. 553) provides that the notice and comment and 30-day delay in the effective date provisions do not apply when the rule involves a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts. This rule involves programs for payments to certain agricultural commodity producers and therefore falls within that exemption. Due to the nature of the rule and the need to implement the regulations expeditiously to provide assistance to agricultural producers, FSA finds that notice and public procedure are contrary to the public interest. Therefore, even though this rule is a major rule for purposes of the Congressional Review Act, FSA is not required to delay the effective date for 60 days from the date of publication to allow for Congressional review. Therefore, this rule is effective upon publication in the **Federal Register**.

Executive Orders 12866, 13563, 13771 and 13777

Executive Order 12866, ''Regulatory Planning and Review,'' and Executive

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Order 13563, ''Improving Regulation and Regulatory Review,'' direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13777, ''Enforcing the Regulatory Reform Agenda,'' established a Federal policy to alleviate unnecessary regulatory burdens on the American people.

The Office of Management and Budget (OMB) designated this rule as economically significant under Executive Order 12866, and therefore, OMB has reviewed this rule. The costs and benefits of this rule are summarized below. The full cost benefit analysis is available on *regulations.gov.*

Executive Order 13771, titled Reducing Regulation and Controlling Regulatory Costs, was issued on January 30, 2017. The OMB guidance in M–17–21, dated April 5, 2017, specifies that ''transfers'' are not covered by Executive Order 13771 but that requirements imposed apart from transfers in transfer rules may qualify as costs or cost savings under Executive Order 13771, for example the information collection requirements in this rule. This rule is not subject to the requirements of E.O. 13771 because this rule results in no more than de minimis costs.

Cost Benefit Analysis Summary

WHIP+ initially provided approximately $3 billion in supplemental assistance to producers for qualifying agricultural production losses. In the Further Consolidated Appropriations Act, 2020, Congress changed provisions of the Disaster Relief Act as follows:

1. Extended eligibility under WHIP+ to also cover [4]—

a. Crop production losses due to excessive moisture in calendar years 2018 and 2019;

b. Crop production losses due to drought in calendar years 2018 and 2019 if the area within the county in which the loss occurred was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year;

2. Provided assistance for sugar beet losses in 2018 and 2019 to be paid through cooperative processors; [5] and

3. Authorized assistance for crop quality losses that occurred in calendar years 2018 and 2019 through the QLA Program (implemented by this rule).

Eligible crops under the QLA Program include crops for which Federal crop insurance or NAP coverage is available. To be eligible for the QLA Program, a crop must have suffered a quality loss due to a qualifying disaster event and had at least a 5 percent quality discount due to a combination of the qualifying disaster event and any other QLA-eligible causes of loss. Eligible crops may have been sold, fed on farm to livestock, or been in storage at the time of application.

USDA estimates the Further Consolidated Appropriations Act, 2020 will provide approximately $950 million for the continuation of disaster assistance program delivery, including payments to eligible producers for production losses due to excessive moisture and extreme drought under WHIP+ and for quality losses covered by the QLA Program. Of that amount, USDA anticipates that an estimated $500 million will be available for QLA Program payments. However, the amount of funding ultimately available for the QLA Program will not be known until other payments, for example for excessive moisture and drought under WHIP+, are finalized.

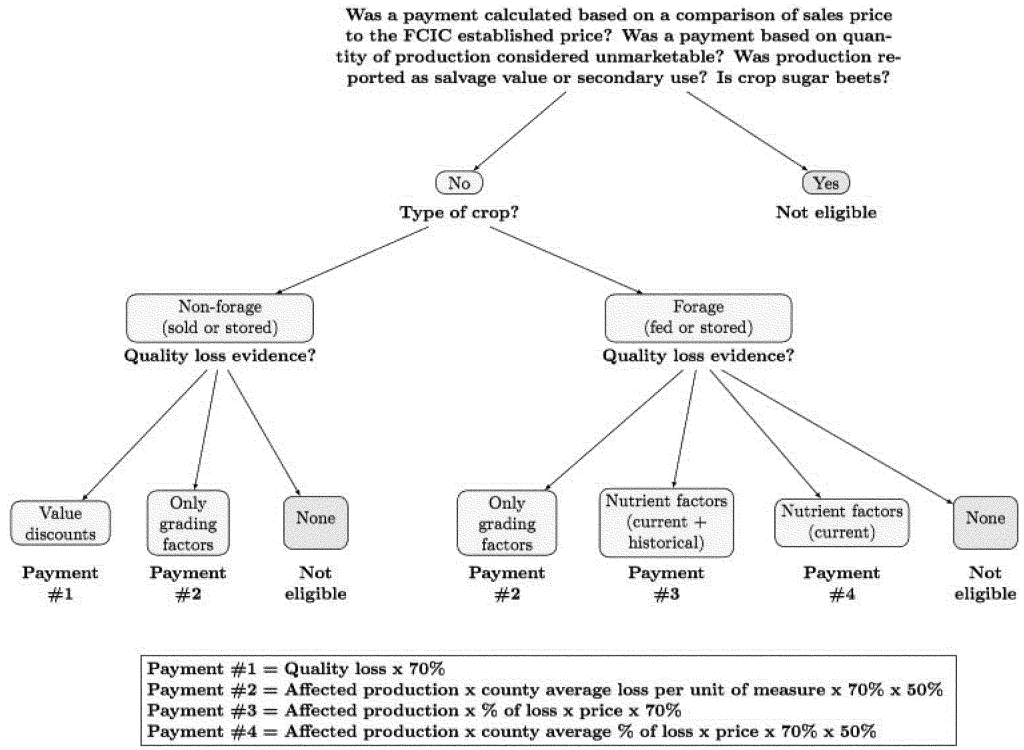
The QLA Program payment calculation depends on several factors, as shown in Figure 1. A producer is ineligible for a QLA Program payment if they received a crop insurance indemnity, NAP payment, or WHIP+ payment for a crop that was unmarketable, sold for salvage value or secondary use, or if the payment was based on a comparison of the sales price of the affected production and the applicable reference price. Otherwise, payments or benefits received under the Federal crop insurance, NAP or WHIP+ do not affect a producer's eligibility or payment received from the QLA Program. The payment calculation depends on the use of production (non-forage or forage) and evidence at hand of the crop quality loss. Producers who do not have evidence of the quality loss are ineligible.

[4] The addition of excessive moisture and certain drought conditions as qualifying causes of loss under WHIP+ is specific, not open to interpretation, and is therefore self-enacting. Accordingly, the provision was previously implemented. FSA began the sign-up period on March 23, 2020, and sign-up ended on October 30, 2020.

[5] Assistance for sugar beet losses for members of cooperative processors is provided through a separate program.

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Figure 1. Eligibility and Payment Calculation



Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA, Pub. L. 104–121), generally requires an agency to prepare a regulatory flexibility analysis of any rule whenever an agency is required by the Administrative Procedure Act or any other law to publish a proposed rule, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule is not subject to the Regulatory Flexibility Act because USDA is not required by Administrative Procedure Act or any law to publish a proposed rule for this rulemaking.

Environmental Review

The environmental impacts of this final rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and the FSA regulation for compliance with NEPA (7 CFR part 799). The legislative intent for implementing the QLA Program is to provide assistance to producers who suffered eligible crop quality losses due to hurricanes, excessive moisture, floods, drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.

While OMB has designated this rule as ''economically significant'' under Executive Order 12866, ''economic or social effects are not intended by themselves to require preparation of an environmental impact statement'' (see 40 CFR 1502.16(b)), when not interrelated to natural or physical environmental effects.

For this rule, the FSA Categorical Exclusions found in 7 CFR 799.31 apply, specifically 7 CFR 799.31(b)(6)(iii), (iv), and (vi) (that is, § 799.31(b)(6)(iii) Financial assistance to supplement income, manage the supply of agricultural commodities, or influence the cost or supply of such commodities or programs of a similar nature or intent (that is, price support programs); § 799.31(b)(6)(iv) Individual farm participation in FSA programs where no ground disturbance or change in land use occurs as a result of the proposed action or participation; and § 799.31(b)(6)(vi) Safety net programs administered by FSA). No Extraordinary Circumstances (7 CFR 799.33) exist.

For the outlined reasons, FSA has determined that the implementation of the QLA Program and the participation in the QLA Program does not constitute a major Federal action that would significantly affect the quality of the human environment, individually or cumulatively. Therefore, FSA will not prepare an environmental assessment or environmental impact statement for this regulatory action.

Executive Order 12372

Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' requires consultation with State and local officials that would be directly affect by proposed Federal financial assistance. The objectives of the Executive order are to foster an intergovernmental partnership and a strengthened federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance and direct Federal development. For reasons specified in the final rule related notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs and activities

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within this rule are excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, ''Civil Justice Reform.'' This rule will not preempt State or local laws, regulations, or policies unless they represent an irreconcilable conflict with this rule. The rule will not have retroactive effect. Before any judicial action may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR parts 11 and 780 must be exhausted.

Executive Order 13132

This rule has been reviewed under Executive Order 13132, ''Federalism.'' The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, except as required by law. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

The USDA's Office of Tribal Relations (OTR) has assessed the impact of this rule on Indian Tribes and determined that this rule may have significant Tribal implications that require ongoing adherence to Executive Order 13175. OTR notes that the programs are similar to programs that have been administered by FSA and RMA in the past; having not heard any concerns regarding the administration of these in the past, and the fact that provisions are mandated in the Disaster Relief Act, OTR recommended that consultation is not required at this time. Tribes can request consultation at any time. FSA will work with OTR to ensure meaningful consultation is provided where changes, additions, and modifications identified in this rule are not expressly mandated by law.

The Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104–4) requires Federal agencies to assess the effects of their regulatory actions on State local, and Tribal governments or the private sector. Agencies generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures of $100 million or more in any 1 year for State, local, or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates, as defined in Title II of UMRA, for State, local, and Tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, FSA submitted the QLA Program information collection request to OMB for emergency approval. OMB approved the 6-month emergency information collection.

E-Government Act Compliance

FSA is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Federal Assistance Programs

The titles and numbers of the Federal Domestic Assistance Program found in the Catalog of Federal Domestic Assistance to which this rule applies are:

10.129—Wildfire and Hurricanes Indemnity Program Plus
10.133—Quality Loss Adjustment Program

List of Subjects in 7 CFR Part 760

Dairy products, Indemnity payments, Reporting and recordkeeping requirements.

For the reasons discussed above, FSA amends 7 CFR part 760 as follows:

PART 760—INDEMNITY PAYMENT PROGRAMS

■ 1. Revise the authority citation for part 760 to read as follows:

Authority: 7 U.S.C. 4501 and 1531; 16 U.S.C. 3801, note; 19 U.S.C. 2497; Title III, Pub. L. 109–234, 120 Stat. 474; Title IX, Pub. L. 110–28, 121 Stat. 211; Sec. 748, Pub. L. 111–80, 123 Stat. 2131; Title I, Pub. L. 115–123, 132 Stat. 65; Title I, Pub. L. 116–20, 133 Stat. 871; and Division B, Title VII, Pub. L. 116–94, 133 Stat. 2658.

Subpart O—Agricultural Disaster Indemnity Programs

§ 760.1500 [Amended]

■ 2. In § 760.1500(c), remove the words ''and wildfires'' and add ''wildfires, excessive moisture, and qualifying drought'' in their place.

■ 3. Amend § 760.1502 as follows:

■ a. In the definition of ''Qualifying disaster event'', in paragraph (2) of remove the word ''wildfire'' and add ''wildfire, excessive moisture, qualifying drought'' in its place; and

■ b. Add the definitions of ''Qualifying drought'' and ''U.S. Drought Monitor'' in alphabetical order.

The additions read as follows:

§ 760.1502 Definitions.

* * * * *

Qualifying drought means an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year.

* * * * *

U.S. Drought Monitor is a system for classifying drought severity according to a range of abnormally dry to exceptional drought. It is a collaborative effort between Federal and academic partners, produced on a weekly basis, to synthesize multiple indices, outlooks, and drought impacts on a map and in narrative form. This synthesis of indices is reported by the National Drought Mitigation Center at *http://droughtmonitor.unl.edu.*

* * * * *

■ 4. In § 760.1503, add paragraph (j) to read as follows.

§ 760.1503 Eligibility.

* * * * *

(j) Members of cooperative processors are not eligible for WHIP+ assistance for sugar beet losses.

§ 760.1508 [Amended]

■ 5. Amend § 760.1508 as follows:

■ a. In paragraph (c), remove the cross reference ''paragraph (b)(1)'' and add the cross reference ''paragraph (b)'' in its place; and

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■ b. In paragraph (f), remove the cross reference ''paragraph (b)(1)'' and add cross reference ''paragraph (e)'' in its place.

§ 760.1510 [Amended]

■ 6. In § 760.1510(a), remove the words ''a date that will be announced by the Deputy Administrator'' and add ''October 30, 2020'' in their place.

§ 760.1511 [Amended]

■ 7. In § 760.1511(a)(6), remove the cross reference ''paragraph (f)'' and add cross reference ''paragraph (g)'' in its place.

■ 8. Add subpart R, consisting of §§ 760.1800 through 760.1814, to read as follows:

Subpart R—Quality Loss Adjustment Program

Sec.

760.1800 Applicability.
760.1801 Administration.
760.1802 Definitions.
760.1803 Participant eligibility.
760.1804 Eligibility of affected production.
760.1805 Qualifying disaster events.
760.1806 Ineligible losses.
760.1807 Miscellaneous provisions.
760.1808 General provisions.
760.1809 Payment and adjusted gross income limitation.
760.1810 Time and method of application.
760.1811 Required documentation and verification.
760.1812 Payment calculation.
760.1813 Availability of funds and timing of payments.
760.1814 Requirement to purchase crop insurance or NAP coverage.

§ 760.1800 Applicability.

This subpart specifies the terms and conditions for the Quality Loss Adjustment (QLA) Program. The QLA Program provides disaster assistance for crop quality losses that were a consequence of hurricanes, excessive moisture, floods, qualifying drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.

§ 760.1801 Administration.

(a) The QLA Program is administered under the general supervision of the Administrator, Farm Service Agency (FSA), and the Deputy Administrator for Farm Programs, FSA. The QLA Program is carried out by FSA State and county committees with instructions issued by the Deputy Administrator.

(b) FSA State and county committees, and representatives and their employees, do not have authority to modify or waive any of the provisions of the regulations in this subpart or instructions issued by the Deputy Administrator.

(c) The FSA State committee will take any action required by the regulations in this subpart that the FSA county committee has not taken. The FSA State committee will also:

(1) Correct, or require an FSA county committee to correct, any action taken by the FSA county committee that is not in accordance with the regulations in this subpart; or

(2) Require an FSA county committee to withhold taking any action that is not in accordance with this subpart.

(d) No delegation to an FSA State or county committee precludes the FSA Administrator or the Deputy Administrator from determining any question arising under this subpart or from reversing or modifying any determination made by an FSA State or county committee.

(e) The Deputy Administrator has the authority to:

(1) Permit State and county committees to waive or modify a non-statutory deadline specified in this subpart; and

(2) Delegate authority to FSA State or county committees to make determinations under § 760.1812(f) and (g).

(f) Items of general applicability to program participants, including, but not limited to, application periods, application deadlines, internal operating guidelines issued to FSA State and county offices, prices, and payment factors established under this subpart, are not subject to appeal in accordance with part 780 of this chapter.

§ 760.1802 Definitions.

The following definitions apply to this subpart. The definitions in §§ 718.2 and 1400.3 of this title also apply, except where they conflict with the definitions in this section. In the event of conflict, the definitions in this section apply.

Affected production means the producer's ownership share of harvested production of an eligible crop, adjusted to standard moisture as established by the U.S. Grains Standards Act, a State regulatory agency, or industry standard, that had both:

(1) A quality loss due to a qualifying disaster event; and

(2) At least a 5 percent quality loss due to all eligible disaster events.

Average market price means the average market price determined according to § 1437.12 of this title.

Coverage level means the percentage determined by multiplying the elected yield percentage under a crop insurance policy or NAP coverage by the elected price percentage.

Crop insurance means an insurance policy reinsured by FCIC under the provisions of the Federal Crop Insurance Act, as amended. It does not include private plans of insurance.

Crop insurance indemnity means, for the purpose of this subpart, the payment to a participant for crop losses covered under crop insurance administered by RMA in accordance with the Federal Crop Insurance Act (7 U.S.C. 1501–1524).

Crop year means:

(1) For insurable crops, the crop year as defined according to the applicable crop insurance policy; and

(2) For NAP-eligible crops, the crop year as defined in § 1437.3 of this title.

Eligible crop means a crop for which coverage was available either from FCIC under part 400 of this title, or through NAP under § 1437.4 of this title.

Eligible disaster event means a disaster event that is an eligible cause of loss specified in § 1437.10 of this title, excluding insect infestation.

FCIC means the Federal Crop Insurance Corporation, a wholly owned Government Corporation of USDA, administered by RMA.

FSA means the Farm Service Agency, an agency of USDA.

Grading factor means a factor that describes the physical condition or a feature that is evaluated to determine the quality of the production, such as broken kernels and low-test weight.

Good farming practices means the cultural practices generally recognized as compatible with agronomic and weather conditions and used for the crop to make normal progress toward maturity, as determined by FSA. These practices are:

(1) For conventional farming practices, those generally recognized by agricultural experts for the area, which could include one or more counties; or

(2) For organic farming practices, those generally recognized by the organic agricultural experts for the area or contained in the organic system plan that is in accordance with the National Organic Program specified in part 205 of this title.

Harvested means:

(1) For insurable crops, harvested as defined according to the applicable crop insurance policy;

(2) For NAP-eligible single harvest crops, that a crop has been removed from the field, either by hand or mechanically;

(3) For NAP-eligible crops with potential multiple harvests in 1 year or harvested over multiple years, that the producer has, by hand or mechanically, removed at least 1 mature crop from the field during the crop year; and

(4) For mechanically harvested NAP-eligible crops, that the crop has been

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removed from the field and placed in a truck or other conveyance, except hay is considered harvested when in the bale, whether removed from the field or not.

Insurable crop means an agricultural crop (excluding livestock) for which the producer on a farm is eligible to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501–1524).

Multiple market crop means a crop that is delivered to a single market but can have fresh and processed prices based on grading. For example, a producer may intend to sell all production of an apple crop as fresh production; however, based on grading of the crop at the market, the producer is compensated for some production at the fresh price and for some production at the processing price.

Multiple planting means the planting for harvest of the same crop in more than one planting period in a crop year on different acreage.

NAP means the Noninsured Crop Disaster Assistance Program under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) and part 1437 of this title.

NAP-eligible crop means an agricultural crop for which the producer on a farm is eligible to obtain NAP coverage.

NAP service fee means the amount specified in § 1437.7 of this title that the producer must pay to obtain NAP coverage.

Nutrient factor means a factor determined by a test that measures the nutrient value of a crop to be fed to livestock. Examples include, but are not limited to, relative feed value and total digestible nutrients.

Production means quantity of the crop produced, which is expressed in a specific unit of measure including, but not limited to, bushels or pounds.

QLA Program means the Quality Loss Adjustment Program.

Qualifying disaster event means a hurricane, flood, tornado, typhoon, volcanic activity, snowstorm, wildfire, excessive moisture, qualifying drought, or a related condition that occurred in the 2018 or 2019 calendar year.

Qualifying drought means an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year.

Quality loss means:

(1) For forage crops, a reduction in an applicable nutrient factor for the crop; and

(2) For crops other than forage, a reduction in the total dollar value of the crop due to reduction in the physical condition of the crop indicated by an applicable grading factor.

Related condition means damaging weather or an adverse natural occurrence that occurred as a direct result of a specified qualifying disaster event, such as excessive rain, high winds, flooding, mudslides, and heavy smoke, as determined by the Deputy Administrator. The term does not include insect infestation.

Reliable production record means evidence provided by the participant that is used to substantiate the amount of production reported when verifiable records are not available, including copies of receipts, ledgers of income, income statements of deposit slips, register tapes, invoices for custom harvesting, and records to verify production costs, contemporaneous measurements, truck scale tickets, and contemporaneous diaries that are determined acceptable by the FSA county committee. To determine whether the records are acceptable, the FSA county committee will consider whether they are consistent with the records of other producers of the crop in that area.

RMA means the Risk Management Agency, an agency of USDA.

Salvage value means the dollar amount or equivalent for the quantity of the commodity that cannot be marketed or sold in any recognized market for the crop.

Secondary use means the harvesting of a crop for a use other than the intended use.

Unit of measure means:

(1) For insurable crops, the FCIC-established unit of measure; and

(2) For NAP-eligible crops, the established unit of measure used for the NAP price and yield.

USDA means the U.S. Department of Agriculture.

U.S. Drought Monitor is a system for classifying drought severity according to a range of abnormally dry to exceptional drought. It is a collaborative effort between Federal and academic partners, produced on a weekly basis, to synthesize multiple indices, outlooks, and drought impacts on a map and in narrative form. This synthesis of indices is reported by the National Drought Mitigation Center at *http://droughtmonitor.unl.edu.*

Value loss crop has the meaning specified in subpart D of part 1437 of this title.

Verifiable documentation means evidence that can be verified by FSA through an independent source.

Verifiable percentage of loss is the percentage of loss determined by comparing the applicable nutrient factors for a producer's affected production of a forage crop with the average of such nutrient factors from the 3 preceding crop years, as documented on FSA–899, Historical Nutritional Value Weighted Average Worksheet.

WHIP+ means the Wildfires and Hurricanes Indemnity Program Plus under subpart O of this part.

§ 760.1803 Participant eligibility.

(a) Participants will be eligible to receive a payment under this subpart only if they incurred a loss to an eligible crop due to a qualifying disaster event, as further specified in this subpart.

(b) To be an eligible participant under this subpart, a person or legal entity must be a:

(1) Citizen of the United States;

(2) Resident alien; for purposes of this subpart, resident alien means ''lawful alien'' (see § 1400.3 of this title);

(3) Partnership consisting solely of citizens of the United States or resident aliens; or

(4) Corporation, limited liability company, or other similar organizational structure organized under State law consisting solely of citizens or resident aliens of the United States.

(c) If any person who would otherwise be eligible to receive a payment dies before the payment is received, payment may be released as specified in § 707.3 of this chapter. Similarly, if any person or legal entity who would otherwise have been eligible to apply for a payment dies or is dissolved, respectively, before the payment is applied for, payment may be released in accordance with this subpart if a timely application is filed by an authorized representative. Proof of authority to sign for the deceased producer or dissolved entity must be provided. If a participant is now a dissolved general partnership or joint venture, all members of the general partnership or joint venture at the time of dissolution or their duly authorized representatives must sign the application. Eligibility of such participant will be determined, as it is for other participants, based upon ownership share and risk in producing the crop.

(d) An ownership share is required to be eligible for a payment under this subpart. Growers growing eligible crops under contract for crop owners are not eligible for a payment under this subpart unless the grower is also determined to have an ownership share of the crop. Any verbal or written contract that precludes the grower from having an ownership share renders the

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grower ineligible for payments under this subpart.

(e) A person or legal entity is not eligible to receive assistance under this subpart if FSA determines that the person or legal entity:

(1) Adopted any scheme or other device that tends to defeat the purpose of this subpart or any of the regulations applicable to this subpart;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination under any or all of the following: This subpart and parts 12, 400, 1400, and 1437 of this title.

(f) A person who is ineligible for crop insurance or NAP under § 400.458 or § 1437.16 of this title, respectively, for any year is ineligible for payments under this subpart for the same year.

(g) The provisions of § 718.11 of this chapter, providing for ineligibility for payments for offenses involving controlled substances, apply.

(h) As a condition of eligibility to receive payments under this subpart, the participant must have been in compliance with the Highly Erodible Land Conservation and Wetland Conservation provisions of part 12 of this title for the applicable crop year for which the producer is applying for benefits under this subpart, and must not otherwise be precluded from receiving payments under part 12, 400, 1400, or 1437 of this title or any law.

§ 760.1804 Eligibility of affected production.

(a) To be eligible for the QLA Program, an eligible crop's affected production must have suffered a quality loss due to a qualifying disaster event and had at least a 5 percent quality loss due to all eligible disaster events. Whether affected production of a crop had a 5 percent loss will be determined separately for crops with different crop types, intended uses, certified organic or conventional status, county, and crop year.

(b) Affected production of the following is not eligible for the QLA Program:

(1) Crops that were not grown commercially;

(2) Crops that were intended for grazing or were grazed;

(3) Crops not intended for harvest;

(4) Volunteer crops;

(5) Value loss crops;

(6) Maple sap;

(7) Honey;

(8) By-products resulting from processing or harvesting a crop, such as, but not limited to, cotton seed, peanut shells, wheat or oat straw, or corn stalks or stovers;

(9) First-year seeding for forage production;

(10) Immature fruit crops;

(11) Crops for which FCIC coverage or NAP coverage is unavailable;

(12) Multiple market crops for which the producer previously received a crop insurance indemnity or WHIP+ payment for a quality loss;

(13) Crops for which production used to calculate a crop insurance indemnity or WHIP+ payment was adjusted based on a comparison of the producer's sale price to FCIC established price;

(14) Crops that received a crop insurance indemnity, NAP payment, or WHIP+ payment based on the quantity of production that was considered unmarketable;

(15) Crops for which the producer previously received a crop insurance indemnity, NAP payment, or WHIP+ payment for which production was reported as salvage value or secondary use;

(16) Sugar beets for which a member of a cooperative processor received a payment through a cooperative agreement; and

(17) Crops that were destroyed.

(c) Only affected production from initial crop acreage will be eligible for a QLA Program payment, unless the provisions for subsequent crops in this section are met. All plantings of an annual or biennial crop are considered the same as a planting of an initial crop in tropical regions as defined in part 1437, subpart F, of this title.

(d) In cases where there is double cropped acreage, affected production of each crop may be eligible only if the specific crops are approved by the FSA State committee as eligible double cropping practices in accordance with procedures approved by the Deputy Administrator.

(e) Participants having affected production from multiple plantings may receive payments for each planting only if the planting meets the requirements of part 1437 of this title and all other provisions of this subpart are satisfied.

§ 760.1805 Qualifying disaster events.

(a) A producer is eligible for payments under this subpart only if the producer's affected production of an eligible crop suffered a crop quality loss due to a qualifying disaster event.

(b) A crop quality loss due to a qualifying disaster event must have occurred on acreage that was physically located in a county that received a:

(1) Presidential Emergency Disaster Declaration authorizing public assistance for categories C through G or individual assistance due to a qualifying disaster event occurring in the 2018 or 2019 calendar years; or

(2) Secretarial Disaster Designation for a qualifying disaster event occurring in the 2018 or 2019 calendar years.

(c) A producer with a crop quality loss on acreage not physically located in a county that was eligible under paragraph (b) of this section will be eligible for the QLA Program for losses due to qualifying disaster events only if the producer provides supporting documentation from which the FSA county committee determines that the crop quality loss on the unit was reasonably related to a qualifying disaster event as specified in this subpart. Supporting documentation may include furnishing climatological data from a reputable source or other information substantiating the claim of loss due to a qualifying disaster event.

§ 760.1806 Ineligible losses.

(a) A loss is not eligible under this subpart if any of the following apply:

(1) The cause of loss is determined by FSA to be the result of poor management decisions, poor farming practices, or drifting herbicides;

(2) The loss could have been mitigated using good farming practices, including losses due to high moisture content that could be mitigated by following best practices for drying and storing the crop;

(3) The qualifying disaster event occurred after the crop was harvested;

(4) FSA or RMA have previously disapproved a notice of loss for the crop and disaster event, unless that notice of loss was disapproved solely because it was filed after the applicable deadline; or

(5) The cause of loss was due to:

(i) Conditions or events occurring outside of the applicable growing season for the crop;

(ii) Insect infestation;

(iii) Water contained or released by any governmental, public, or private dam or reservoir project if an easement exists on the acreage affected by the containment or release of the water;

(iv) Failure of a power supply or brownout; or

(v) Failure to harvest or market the crop due to lack of a sufficient plan or resources.

(b) [Reserved]

§ 760.1807 Miscellaneous provisions.

(a) All persons with a financial interest in a legal entity receiving payments under this subpart are jointly and severally liable for any refund, including related charges, that is determined to be due to FSA for any reason.

(b) In the event that any application under this subpart resulted from

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erroneous information or a miscalculation, the payment will be recalculated and any excess refunded to FSA with interest to be calculated from the date of the disbursement.

(c) Any payment to any participant under this subpart will be made without regard to questions of title under State law, and without regard to any claim or lien against the commodity, or proceeds, in favor of the owner or any other creditor except agencies of the U.S. Government. The regulations governing offsets and withholdings in part 3 of this chapter apply to payments made under this subpart.

(d) Any participant entitled to any payment may assign any payment(s) in accordance with regulations governing the assignment of payments in part 3 of this chapter.

(e) The regulations in parts 11 and 780 of this title apply to determinations under this subpart.

§ 760.1808 General provisions.

(a) Eligibility and payments under this subpart will be determined based on the county where the affected production was harvested.

(b) FSA county committees will make any necessary adjustments to the applicant's affected production and other information on the application form used to calculate a payment when the county committee determines:

(1) Additional documentation has been requested by FSA but has not been provided by the participant;

(2) The loss is due to an ineligible cause; or

(3) The participant has a contract providing a guaranteed payment for all or a portion of the crop.

(c) Unless otherwise specified, all eligibility provisions of part 1437 of this title also apply to tropical crops for eligibility under this subpart.

(d) FSA will use the most reliable data available at the time payments under this subpart are calculated. If additional data or information is provided or becomes available after a payment is issued, FSA will recalculate the payment amount and the producer must return any overpayment amount to FSA. In all cases, payments can only issue based on the payment formula for losses that affirmatively occurred.

(e) Production that is commingled between counties, crop years, or ineligible and eligible acres before it was a matter of record or combination of record and cannot be separated by using records or other means acceptable to FSA will be prorated to each respective year, county, or type of acreage, respectively.

§ 760.1809 Payment and adjusted gross income limitation.

(a) A person or legal entity, other than a joint venture or general partnership, is eligible to receive, directly or indirectly, payments of not more than $125,000 for each of the 2018, 2019, and 2020 crop years under this subpart.

(b) Payments made to a joint operation, including a joint venture or general partnership, cannot exceed the amount determined by multiplying the maximum payment amount specified in paragraph (a) of this section by the number of persons and legal entities, other than joint operations, that comprise the ownership of the joint operation.

(c) The direct attribution provisions in § 1400.105 of this title apply to payments under this subpart.

(d) The notification of interest provisions in § 1400.107 of this title apply to payments under this subpart.

(e) The provisions for recognizing persons added to a farming operation for payment limitation purposes as described in § 1400.104 of this title apply to payments under this subpart.

(f) The $900,000 average AGI limitation provisions in part 1400 of this title relating to limits on payments for persons or legal entities, excluding joint ventures and general partnerships, apply to each applicant for the QLA Program unless at least 75 percent of the person or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. A person's or legal entity's average AGI for each of the program years 2018, 2019 or 2020, is determined by using the average of the adjusted gross incomes for the 3 taxable years preceding the most immediately preceding taxable year. If the person's or legal entity's average AGI is below $900,000 or at least 75 percent of the person or legal entity's average AGI is derived from farming, ranching, or forestry-related activities, the person or legal entity, is eligible to receive payments under this subpart.

§ 760.1810 Time and method of application.

(a) A completed FSA–898, Quality Loss Adjustment (QLA) Program Application, must be submitted in person, by mail, email, or facsimile to any FSA county office by the close of business on March 5, 2020.

(b) An application submitted in accordance with paragraph (a) of this section is not considered valid and complete for issuance of payment under this subpart unless FSA determines all the applicable eligibility provisions have been satisfied and the producer has submitted all of following by March 19, 2020:

(1) Documentation required by § 760.1811;

(2) FSA–578, Report of Acreage, for all acreage for any crop for which payments under this subpart are requested;

(3) FSA–895, Crop Insurance and/or NAP Coverage Agreement; and

(4) For forage crops, FSA–899, Historical Nutritional Value Weighted Average Worksheet, if verifiable documentation of historical nutrient factors is available.

(c) In addition to the forms listed in paragraph (b) of this section, applicants must also submit all the following eligibility forms within 60 days from the date of signing the QLA Program application if not already on file with FSA:

(1) AD–1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation Certification;

(2) CCC–902 Automated, Farm Operating Plan for Payment Eligibility 2009 and Subsequent Program Years;

(3) CCC–941 Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information; and

(4) CCC–942 Certification of Income from Farming, Ranching and Forestry Operations, if applicable.

(d) Failure to submit all required forms by the applicable deadlines in paragraphs (b) and (c) of this section may result in no payment or a reduced payment.

(e) Application approval and payment by FSA does not relieve a participant from having to submit any form required, but not filed, according to this section.

(f) Once signed by a producer, the application is considered to contain information and certifications of and pertaining to the producer regardless of who entered the information on the application.

(g) The producer applying for payment under this subpart certifies the accuracy and truthfulness of the information provided in the application as well as any documentation filed with or in support of the application. All information is subject to verification or spot check by FSA at any time, either before or after payment is issued. Refusal to allow FSA or any agency of the USDA to verify any information provided will result in the participant's forfeiting eligibility for payment under this subpart. FSA may at any time, including before, during, or after processing and paying an application, require the producer to submit any additional information necessary to implement or determine any eligibility

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provision of this subpart. Furnishing information specified in this subpart is voluntary; however, FSA may choose not to act on the application or approve payment if the required information is not provided. Providing a false certification will result in ineligibility and can also be punishable by imprisonment, fines, and other penalties.

§ 760.1811 Required documentation and verification.

(a) If requested by FSA, an applicant must provide documentation that establishes the applicant's ownership share and value at risk in the crop.

(b) The applicant must provide acceptable documentation that is dated and contains all information required to substantiate the applicant's certification to the satisfaction of the FSA county committee. Verifiable documentation is required to substantiate the total dollar value loss and associated affected production, grading factors, and nutritional factors. FSA may verify the records with records on file at the warehouse, gin, or other entity that received or may have received the reported production. Reliable production records are required to substantiate the reported amount of affected production for applications not based on the total dollar value loss.

(c) To be considered acceptable, verifiable documentation for grain crops that were sold may come from any time between harvest and sale of the affected production, unless the FSA county committee determines the record is not representative of the condition within 30 days of harvest. For all other crops, the verifiable documentation must come from tests or analysis completed within 30 days of harvest, unless the FSA county committee determines that the record is representative of the condition of the affected production at time of harvest. Examples of acceptable records for purposes of this paragraph (c) include:

(1) Warehouse grading sheets;

(2) Settlement sheets;

(3) Sales receipts showing grade and price or disposition to secondary market due to quality; and

(4) Laboratory test results.

(d) For forage crops, producers must submit verifiable documentation showing the nutrient factors for the affected production. Producers must also submit verifiable documentation of the historical nutrient factors for the 3 preceding crop years if available. The nutrient factors that must be documented for a crop will determined by the FSA county committee based on the standard practice for the crop in that county.

(e) For all crops other than forage crops, producers must submit verifiable documentation of the total dollar value loss due to quality, if available, and verifiable documentation of grading factors due to quality.

(f) The participant is responsible for:

(1) Retaining, providing, and summarizing, at time of application and whenever required by FSA, the best available verifiable production records for the crop;

(2) Providing the information in a manner that can be easily understood by the FSA county committee; and

(3) Providing supporting documentation about the disaster event if the FSA county committee has reason to question the disaster event.

(e) Participants must provide all records for any production of a crop that is grown with an arrangement, agreement, or contract for guaranteed payment.

(f) Participants are required to retain documentation in support of their application for 3 years after the date of approval.

(g) Participants receiving QLA Program payments or any other person who furnishes such information to USDA must permit authorized representatives of USDA or the Government Accountability Office, during regular business hours, to enter the agricultural operation and to inspect, examine, and make copies of books, records, or other items for the purpose of confirming the accuracy of the information provided by the participant.

§ 760.1812 Payment calculation.

(a) Payments will be calculated separately for crops based on the crop type, intended use, certified organic or conventional status, county, and crop year.

(b) For forage crops with verifiable documentation of nutrient factors for the affected production and for the 3 preceding crop years, the payment will be equal to the producer's total affected production multiplied by the producer's verifiable percentage of loss, multiplied by the average market price, multiplied by 70 percent.

(c) For forage crops with verifiable documentation of nutrient factors for the affected production but not for the 3 preceding crop years, the payment will be equal to the producer's total affected production multiplied by the county average percentage of loss in paragraph (f) of this section, multiplied by the average market price, multiplied by 70 percent, multiplied by 50 percent.

(d) For crops other than forage with verifiable documentation of the total dollar value loss due to quality, the payment will be equal to the producer's total dollar value loss on the affected production, multiplied by 70 percent.

(e) For crops other than forage without verifiable documentation of the total dollar value loss but with verifiable documentation of grading factors, the payment will be equal to the producer's affected production multiplied by the county average loss per unit of measure in paragraph (g) of this section, multiplied by 70 percent, multiplied by 50 percent.

(f) The county average percentage of loss is the average percentage of loss from producers eligible for payment under paragraph (b) of this section if at least 5 producers in a county are eligible for payment for a crop under paragraph (b) of this section. If less than 5 producers in a county are eligible for payment for a crop under paragraph (b) of this section, the Deputy Administrator will:

(1) Determine a county average percentage of loss based on the best available data, including, but not limited to, evidence of losses in contiguous counties; or

(2) If a county average percentage of loss cannot be determined due to insufficient data, not issue payments to applicants under paragraph (c) of this section.

(g) The county average loss per unit of measure is based on the weighted average sales price from producers eligible for payment under paragraph (d) of this section if at least 5 producers in a county are eligible for payment for a crop under paragraph (d) of this section. If less than 5 producers are eligible for payment in a county under paragraph (d) of this section, the Deputy Administrator will:

(1) Determine a county average loss per unit of measure based on the best available data, including, but not limited to, evidence of losses in contiguous counties; or

(2) If a county average loss per unit of measure cannot be determined due to insufficient data, not issue payments to applicants under paragraph (e) of this section.

§ 760.1813 Availability of funds and timing of payments.

(a) Payments will be issued after the application period has ended and all applications have been reviewed by FSA.

(b) In the event that, within the limits of the funding made available by the Secretary, approval of eligible applications would result in payments

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in excess of the amount available, FSA will prorate payments by a national factor to reduce the payments to an amount that is less than available funds as determined by the Secretary.

(c) Applications and claims that are unpaid or prorated for any reason will not be carried forward for payment under other funds for later years or otherwise, but will be considered, as to any unpaid amount, void and nonpayable.

§ 760.1814 Requirement to purchase crop insurance or NAP coverage.

(a) For the first 2 consecutive crop years for which crop insurance or NAP coverage is available after the enrollment period for the QLA Program ends, a participant who receives payment under this subpart for a crop loss in a county must obtain:

(1) For an insurable crop, crop insurance with at least a 60 percent coverage level for that crop in that county; or

(2) For a NAP-eligible crop, NAP coverage with a coverage level of 60 percent.

(b) Participants who exceed the average adjusted gross income limitation for NAP payment eligibility [1] for the applicable crop year may meet the purchase requirement specified in paragraph (a)(2) of this section by purchasing Whole-Farm Revenue Protection crop insurance coverage, if eligible, or paying the NAP service fee and premium even though the participant will not be eligible to receive a NAP payment due to the average adjusted gross income limit.

(c) The final crop year to purchase crop insurance or NAP coverage to meet the requirements of paragraph (a) of this section is the 2023 crop year.

(d) A participant who obtained crop insurance or NAP coverage for the crop in accordance with the requirements for WHIP+ in § 760.1517 is considered to have met the requirement to purchase crop insurance or NAP coverage for the QLA Program.

(e) If a producer fails to obtain crop insurance or NAP coverage as required in this section, the producer must reimburse FSA for the full amount of QLA Program payment plus interest. A producer will only be considered to have obtained NAP coverage for the purposes of this section if the participant submitted a NAP application for coverage and paid the requisite NAP service fee and any applicable premium by the applicable deadline and completed all program requirements required under the coverage agreement, including filing an acreage report.

Richard Fordyce,

Administrator, Farm Service Agency.

[FR Doc. 2020–28914 Filed 1–5–21; 8:45 am]

BILLING CODE 3410–05–P

[1] See §§ 1400.500(a) and 1400.1(a)(4) of this title.

DEPARTMENT OF ENERGY

10 CFR Part 1061

RIN 1990–AA50

Procedures for the Issuance of Guidance Documents

AGENCY: Office of the General Counsel, Department of Energy.

ACTION: Final rule.

SUMMARY: The U.S. Department of Energy (DOE) publishes this final rule to establish procedures for the issuance of DOE guidance documents in accordance with Executive Order 13891. In this final rule, DOE establishes internal agency requirements for the contents of guidance documents, and procedures for providing notice of, and soliciting public comment on, certain guidance documents. This final rule also establishes procedures for the public to petition DOE to modify or withdraw guidance documents.

DATES: The effective date of this rule is February 5, 2021.

ADDRESSES: The docket for this rulemaking, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *https://www.regulations.gov*. All documents in the docket are listed in the *https://www.regulations.gov* index. However, not all documents listed in the index, such as those containing information that is exempt from public disclosure by law, may be publicly available. A link to the docket web page can be found at *https://www.regulations.gov/document?D=DOE-HQ-2020-0033-0001*. The docket web page explains how to access all documents, including public comments, in the docket.

FOR FURTHER INFORMATION CONTACT: Mr. Matthew Ring, U.S. Department of Energy, Office of the General Counsel, Forrestal Building, GC–33, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–2555, Email: *Guidance@hq.doe.gov*.

SUPPLEMENTARY INFORMATION:

I. Summary of Final Rule

In this final rule, DOE incorporates into the Code of Federal Regulations a new 10 CFR part 1061, which implements the requirements of Executive Order 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents.'' (84 FR 55235 (Oct. 15, 2019)) Among other things, Executive Order 13891 requires agencies to provide more transparency for their guidance documents by creating a searchable online database for current guidance documents,[1] and by establishing procedures to allow the public to comment on significant guidance documents and to petition the agency to withdraw or modify guidance documents.[2] Moreover, the Executive Order requires agencies to clearly state in their guidance documents that such guidance does not have the force and effect of law and is not legally binding, except as authorized by law or as incorporated into a contract. (84 FR 55235, 55237)

This final rule applies to all DOE guidance documents, as defined by Executive Order 13891, including the exceptions listed in section 2 of the Executive Order. This final rule also lists specific types of documents and communications that fall within the broader exceptions listed in the Executive Order (*e.g.,* speeches and presentations given by DOE officials, legal positions taken in litigation or enforcement actions). (See also OMB M–20–02, Guidance Implementing Executive Order 13891, Titled ''Promoting the Rule of Law Through Improved Agency Guidance Documents'' (Oct. 31, 2019), available at *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*). This final rule also adopts the same definition of ''significant guidance document'' as section 2 of Executive Order 13891.

In accordance with Executive Order 13891, this final rule requires that all DOE guidance documents clearly state that they do not have the force and effect of law and are not legally binding on the public, and that they are only intended to provide clarity to the public

[1] DOE's online database may be found at *energy.gov/guidance*.

[2] Executive Order 13891 defines ''significant guidance document'' as ''a guidance document that may reasonably be anticipated to: (i) Lead to an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (ii) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (iii) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (iv) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles of Executive Order 12866.'' (84 FR 55235, 55236)

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An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

Elizabeth K. Appel,

Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2021–00317 Filed 1–8–21; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–OIA–31249; PIN00IO14.XI0000]

U.S. Nominations to the World Heritage List; 15-Day Notice of Opportunity for Public Comment

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: This notice requests public comment on the next potential U.S. nominations from the U.S. World Heritage Tentative List (''Tentative List'') to the United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage List. The public may also make suggestions for future additions to the Tentative List. This notice complies with applicable World Heritage Program regulations.

DATES: Comments will be accepted on or before January 26, 2021.

ADDRESSES: You may submit comments by either of the following methods:

- *Mail to:* Jonathan Putnam, Office of International Affairs, National Park Service, 1849 C Street NW, Washington, DC 20240.
- *Email to: jonathan_putnam@nps.gov*. Phone: (202) 354–1809.

Comments will not be accepted in any way other than those specified above.

Information on the U.S. World Heritage program can be found at: *https://www.nps.gov/subjects/internationalcooperation/worldheritage.htm*.

To request a paper copy of the U.S Tentative List, please contact April Brooks, Office of International Affairs, National Park Service, 1849 C Street NW, Room 2415, Washington, DC 20240 (202) 354–1808, or Email: *april_brooks@nps.gov*.

FOR FURTHER INFORMATION CONTACT: Jonathan Putnam, (202) 354–1809.

For the World Heritage nomination format, see the World Heritage Centre website at: *http://whc.unesco.org/en/nominations*.

SUPPLEMENTARY INFORMATION:

Background

The World Heritage List is an international list of cultural and natural properties nominated by the signatories to the World Heritage Convention (1972), an international treaty for the preservation of natural and cultural heritage sites of global significance. U.S. participation and the roles of the Department of the Interior and the National Park Service are authorized by Title IV of the Historic Preservation Act Amendments of 1980 and conducted in accordance with 36 CFR part 73—World Heritage Convention. The National Park Service serves as the principal technical agency for the U.S. Government to the Convention.

A Tentative List is a national list of natural and cultural properties appearing to meet the World Heritage Committee eligibility criteria for nomination to the World Heritage List. It is a list of candidate sites which a country may consider for nomination within a given time period, but does not guarantee future nomination. The World Heritage Committee's *Operational Guidelines* ask participating nations to provide Tentative Lists, which aid in evaluating properties for the World Heritage List on a comparative international basis and help the Committee to schedule its work over the long term. A country cannot nominate a property unless it has been on its Tentative List for a minimum of a year. Countries also are limited at this time to nominating no more than one site in any given year.

Neither inclusion in the Tentative List nor inscription as a World Heritage Site imposes legal restrictions on owners or neighbors of sites, nor does it give the United Nations any management authority or ownership rights in U.S. World Heritage Sites, which continue to be subject to U.S. laws.

Current U.S. World Heritage Tentative List

The current U.S. World Heritage Tentative List includes the following properties:

Cultural Sites

Civil Rights Movement Sites, Alabama [other properties would be added for a complete nomination]

—Dexter Avenue King Memorial Baptist Church, Montgomery
—Bethel Baptist Church, Birmingham
—16th Street Baptist Church, Birmingham

Dayton Aviation Sites, Ohio

—Dayton Aviation Heritage National Historical Park

Hopewell Ceremonial Earthworks, Ohio

—Fort Ancient State Memorial, Warren County
—Hopewell Culture National Historical Park, near Chillicothe
—Newark Earthworks State Historic Site, Newark and Heath

Jefferson (Thomas) Buildings, Virginia (Proposed Jointly as an Extension to the World Heritage Listing of Monticello and the University of Virginia Historic District)

—Poplar Forest, Bedford County
—Virginia State Capitol, Richmond

Mount Vernon, Virginia

Serpent Mound, Ohio

Ellis Island, New Jersey and New York

Chicago Early Skyscrapers, Illinois, including: [Other Properties May Be Added in the Course of Developing a Nomination]

—Rookery
—Auditorium Building
—Monadnock Building
—Ludington Building
—Marquette Building
—Old Colony Building
—Schlesinger & Mayer (Carson, Pirie Scott) Department Store
—Second Leiter Building
—Fisher Building

Central Park, New York

Brooklyn Bridge, New York

Moravian Bethlehem District, Pennsylvania

Natural Sites

National Marine Sanctuary of American Samoa (Formerly Fagatele Bay National Marine Sanctuary, American Samoa)

Okefenokee National Wildlife Refuge, Georgia

Petrified Forest National Park, Arizona

White Sands National Monument, New Mexico

Marianas Trench National Monument, U.S. Territory, Commonwealth of the Northern Mariana Islands, Guam

Central California Current, California, Including

—Cordell Bank National Marine Sanctuary
—Monterey Bay National Marine Sanctuary
—Greater Farallones National Marine Sanctuary
—Farallon Islands National Wildlife Refuge

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NM-OTERO-21-0275-A-000657

—Point Reyes National Seashore
—Golden Gate National Recreation Area

Big Bend National Park, Texas

Pacific Remote Islands National Monument, U.S. Territorial Waters

Notes: (1) A nomination for the Hopewell Ceremonial Earthworks was authorized for preparation in May 2018 by the Department of the Interior and is now under development. (2) The Department has requested and is now awaiting advice from the International Council on Monuments and Sites (ICOMOS) on adding other properties to the proposal for the Civil Rights Movement Sites and its overall justification. (3) The government of the German state of Saxony is proposing an extension to the World Heritage listing of Christiansfeld, a Moravian Church Settlement in Denmark, that would include Herrnhut in Germany, the Moravian Bethlehem District in Bethlehem, Pennsylvania, and potentially other historic Moravian settlements in other countries.

Request for Public Comments

Comments on whether to authorize the preparation of a World Heritage nomination for any of the properties on the Tentative List should address the readiness and ability of the property owner(s) to prepare a satisfactory nomination document. Suggestions for additions to the Tentative List not previously submitted must address: (i) How the property(ies) would meet the World Heritage nomination criteria, requirements for authenticity, integrity, legal protection and management. Information on these criteria and requirements can be found on the website noted in the **FOR FURTHER INFORMATION CONTACT** section of this notice; and (ii) The U.S. legal prerequisites that include the agreement of all property owners to the nomination of their property, an official determination that the property is nationally significant (such as by designation as a National Historic or National Natural Landmark), and effective legal protection. All previous suggestions for the Tentative List made during previous comment periods or otherwise submitted since 2008, have been retained and considered and should not be resubmitted at this time.

Selection and Nomination

All public comments will be summarized and provided to Department of the Interior officials, who will obtain the advice of the Federal Interagency Panel for World Heritage before making any selection of properties for authorization to prepare a World Heritage nomination. The selection may include relevant factors, such as the likelihood of being able to complete a satisfactory nomination, and the fact that the United States is currently prohibited by law from providing any funding to UNESCO, including UNESCO and World Heritage member dues. Once authorized, the property owners may prepare a draft nomination.

The Department does not have a fixed schedule for completing or submitting World Heritage nominations. No more than one nomination from any country may be submitted per year, per the UNESCO World Heritage *Operational Guidelines.* Completed nominations, if approved by the Department for submission, may be submitted to the UNESCO World Heritage Centre by February 1 of any year.

Public Availability of Comments

All comments will be a matter of public record. Before including an address, phone number, email address, or other personal identifying information in a comment, members of the public should be aware that the entire comment—including personal identifying information—may be made public at any time. While commenters can request that personal identifying information be withheld from public review, it may not be possible to comply with this request.

Authority: 54 U.S.C. 307101; 36 CFR part 73.

George Wallace,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2021–00310 Filed 1–8–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#-31331; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before December 25, 2020, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by January 26, 2021.

ADDRESSES: Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line ''Public Comment on property or proposed district name, (County) State.'' If you have no access to email you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before December 25, 2020. Pursuant to Section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State or Tribal Historic Preservation Officers:

CALIFORNIA

Orange County

Johnson, Hugh Edgar, House, 444 W. Brookdale Pl., Fullerton, SG100006089

FLORIDA

Monroe County

Matecumbe Methodist Church Cemetery, 81801 Overseas Hwy., Islamorada, SG100006117

Pinellas County

House at 827 Mandalay Avenue, 827 Mandalay Ave., Clearwater, SG100006118

Sumter County

Wild Cow Prairie Cemetery, 5822 Cty. Rd. 673, Bushnell vicinity, SG100006119

Volusia County

Wright, James W., Building, 258 West Voorhis Ave., DeLand, SG100006120

Walton County

Herman Lodge No. 108 Free & Accepted Masons of Florida, 314 Madison St., Freeport, SG100006121

ILLINOIS

Cook County

Irving, James B., House, 2771 Crawford Ave., Evanston, SG100006102

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From: Jonna Lou Schafer <boredwell@dellcity.com>
Sent: Monday, January 11, 2021 9:20 PM EST
To: Couy Griffin <cgriffin@co.otero.nm.us>; Gerald Matherly <gmatherly@co.otero.nm.us>; Vickie Marquardt <vmarquardt@co.otero.nm.us>
CC: Pamela Heltner <pheltner@co.otero.nm.us>; Brian Muise <b.k.muise@gmail.com>; Gary Scarbrough <gary@dellcity.com>; Henerietta Stockel <hstockel@tularosa.net>; Jeff Stephan <pc1chap.nm@gmail.com>; Jeff Stephen <casadeosos.jeff@gmail.com>; Judy Medeiros <judymedeiros@msn.com>; Schafer <boredwell@dellcity.com>; Sidney Gordon <sgordon@nmsu.edu>; Twyla Lewis <tflewis@pvtn.net>; Walt Coffman <walt@pvtnetworks.net>
Subject: Fw: Linebery weekly email (federal register)
Attachment(s): "2020-28879.pdf","2020-28881.pdf","2020-28914.pdf","2021-00310.pdf"

FYI

From: Nicholas Ashcroft
Sent: Monday, January 11, 2021 7:03 PM
To:
Subject: Linebery weekly email (federal register)

2020-28879 - Council on Environmental Quality. Notice of online portal for agency guidance documents.

2020-28881- Council on Environmental Quality. Final rule.

2020-28914- Agricultural Disaster Indemnity Programs: Farm Service Agency (FSA), Department of Agriculture (USDA). Final rule.

2021-00310- U.S. Nominations to the World Heritage List; 15-Day Notice of Opportunity for Public Comment: National Park Service, Interior.

Nick Ashcroft
Natural Resource Policy Analyst
Linebery Policy Center for Natural Resource Management

nashcrof@nmsu.edu
575-646-5508 (office)

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7910–00–685–6660—Pad, Machine, Scrubbing, Floor, 17″ x ¼″
7910–00–685–6671—Pad, Machine, Polishing, Floor, 15″ x ¼″
7910–00–685–6672—Pad, Machine, Polishing, Floor, 17″ x ¼″
7910–00–685–6686—Pad, Machine, Polishing, Floor, 12″ x ¼″
7910–00–685–6687—Pad, Machine, Polishing, Floor, 13″ x ¼″
7910–00–820–7989—Pad, Floor, Buffing, Nylon, Tan, 15″
7910–00–NIB–0006—Pad, Floor, Burnishing, Animal Hair, Gray, 17″
7910–00–NIB–0009—Pad, Floor, Burnishing, Animal Hair, Gray, 21″
7910–00–NIB–0016—Pad, Floor, Polishing, Animal Hair, Beige, 17″
7910–00–NIB–0029—Pad, Floor, Buffing, Polyester, Red, 14″
7910–00–NIB–0030—Pad, Floor, Buffing, Polyester, Red, 15″
7910–00–NIB–0034—Pad, Floor, Scrubbing, Polyester, Blue, 14″
7910–00–NIB–0040—Pad, Floor, Scrubbing, Polyester, Blue, 21″
7910–01–512–5933—Pad, Floor, Stripping, Polyester, Brown, 17″
7910–01–512–5937—Pad, Floor, Scrubbing, Polyester, Blue, 13″
7910–01–512–5950—Pad, Floor, Scrubbing, Polyester, Blue, 17″

Designated Source of Supply: Beacon Lighthouse, Inc., Wichita Falls, TX
Contracting Activity: GSA/FSS Greater Southwest ACQUISITI, Fort Worth, TX

Michael R. Jurkowski,

Deputy Director, Business & PL Operations.

[FR Doc. 2021–00151 Filed 1–7–21; 8:45 am]

BILLING CODE 6353–01–P

COUNCIL ON ENVIRONMENTAL QUALITY

Guidance Document Online Portal

AGENCY: Council on Environmental Quality.

ACTION: Notice of online portal for agency guidance documents.

SUMMARY: In accordance with Executive Order (E.O.) 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' dated October 9, 2019, and Office of Management and Budget (OMB) Memorandum M–20–02, dated October 31, 2019, the Council on Environmental Quality (CEQ) is providing notice of where the public may access CEQ guidance documents.

ADDRESSES: The portal may be found at *https://www.whitehouse.gov/ceq/resources/*.

FOR FURTHER INFORMATION CONTACT: Amy B. Coyle, Deputy General Counsel, Council on Environmental Quality, 730 Jackson Place NW, Washington, DC 20503, 202–395–5750, *amy.b.coyle@ceq.eop.gov*.

SUPPLEMENTARY INFORMATION: E.O. 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' [1] requires that each agency establish or maintain on its website a single, searchable, indexed database that contains or links to all agency guidance documents [2] in effect. In accordance with E.O. 13891 and OMB's implementing guidance, set forth in OMB Memorandum M–20–02,[3] CEQ has complied with this requirement through its website portal, which is available to the public at *whitehouse.gov/ceq/resources*.[4] As required by E.O. 13891, the website also reiterates that: (1) The contents of the guidance documents accessed through the portal lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract; and (2) these documents are intended only to provide clarity to the public regarding existing requirements under statutes and regulations administered by CEQ. Under the E.O., CEQ may not cite, use, or rely on any guidance document that is not posted on or linked to the website portal, except to establish historical facts.

CEQ will also include on its website portal a link to its final rule establishing CEQ's internal agency procedures for issuing guidance documents, required by section 4 of E.O. 13891. The final rule relating to CEQ's guidance document procedures is published elsewhere in this issue of the **Federal Register**.

Authority: 42 U.S.C. 4321–4347; 42 U.S.C. 4371–4375; and E.O. 13891, 84 FR 55235.

Mary B. Neumayr,

Chairman.

[FR Doc. 2020–28879 Filed 1–7–21; 8:45 am]

BILLING CODE 3125–F1–P

[1] 84 FR 55235 (Oct. 15, 2019).

[2] E.O. 13891 defines ''guidance document'' as ''an agency statement of general applicability, intended to have future effect on the behavior of regulated parties, that sets forth a policy on a statutory, regulatory, or technical issue, or an interpretation of a statute or regulation. . . .'' *Id.*

[3] OMB issued its guidance memorandum on October 31, 2019. *See* M–20–02, Guidance Implementing Executive Order 13891, Titled ''Promoting the Rule of Law Through Improved Agency Guidance Documents'' (Oct. 31, 2019), *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*.

[4] CEQ's website portal at *https://www.whitehouse.gov/ceq/resources/* includes links to CEQ guidance documents and resources, some of which are provided on nepa.gov (*https://www.energy.gov/nepa/ceq-guidance-documents*) and sustainability.gov (*https://www.sustainability.gov/resources.html*).

DEPARTMENT OF EDUCATION

[Docket No. ED–2020–SCC–0167]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before February 8, 2021.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Find this information collection request by selecting ''Department of Education'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox. Comments may also be sent to *ICDocketmgr@ed.gov*.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, (202) 377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note

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PART 220—[REMOVED]

■ Accordingly, for the reasons stated in the preamble and under the authority of 5 U.S.C. 301, the Corps removes 33 CFR part 220.

R.D. James,

Assistant Secretary of the Army (Civil Works).

[FR Doc. 2020–27908 Filed 1–7–21; 8:45 am]

BILLING CODE 3720–58–P

COUNCIL ON ENVIRONMENTAL QUALITY

40 CFR Part 1519

RIN 0331–AA04

Guidance Document Procedures

AGENCY: Council on Environmental Quality.

ACTION: Final rule.

SUMMARY: Pursuant to Executive Order (E.O.) 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' this final rule establishes the process that the Council on Environmental Quality (CEQ) will follow for issuing guidance documents. E.O. 13891 requires Federal agencies to finalize regulations or amend existing regulations to establish processes and procedures for issuing guidance documents.

DATES: This rule is effective January 8, 2021.

FOR FURTHER INFORMATION CONTACT: Amy B. Coyle, Deputy General Counsel, Council on Environmental Quality, 730 Jackson Place NW, Washington, DC 20503, (202) 395–5750, *amy.b.coyle@ceq.eop.gov*.

SUPPLEMENTARY INFORMATION:

On October 9, 2019, President Trump issued E.O. 13891,[1] which addresses the development, use, and public availability of agency guidance documents. It requires agencies to promulgate or update existing regulations setting forth their procedures for issuing guidance documents. In accordance with section 6 of E.O. 13891, on October 31, 2019, the Office of Management and Budget (OMB) issued memorandum M–20–02, ''Guidance Implementing Executive Order 13891, Titled 'Promoting the Rule of Law Through Improved Agency Guidance Documents' '' (OMB M–20–02)[2] to provide guidance and implement the Executive order. OMB M–20–02 provides agencies with additional instruction on how to implement E.O. 13891, including the required rulemaking.

I. Summary of Final Rule

In this final rule, CEQ adds a new part 1519 to the Code of Federal Regulations to set out its procedures for the development and issuance of guidance documents consistent with the direction and reflecting the policies described in E.O. 13891 and OMB M–20–02.

A. Section 1519.1, ''Purpose''

Section 1519.1, ''Purpose,'' states that the purpose of part 1519 is to implement E.O. 13891, and explains CEQ's process for developing and issuing guidance.

B. Section 1519.2, ''Guidance Document Procedures''

Section 1519.2, ''Guidance document procedures,'' defines ''guidance documents'' in paragraph (a) and describes documents that do not meet that definition in paragraph (b), consistent with section 2(b)[3] of the E.O. and Q2 of OMB M–20–02.

Paragraph (c) of § 1519.2 lists the minimum requirements for any document meeting the definition of a guidance document consistent with Q22 of OMB M–20–02, including a title, unique identification number, date, indication of whether it revises or replaces prior guidance, summaries, and legal citations. Additionally, consistent with section 4(i) of E.O. 13891, paragraph (c)(6) includes a requirement that each guidance document clearly state that it does not bind the public, except as authorized by law or as incorporated into a contract.

Paragraph (c)(11) of § 1519.2 specifies that any guidance document must be posted on CEQ's website. E.O. 13891 also directed Federal agencies to make guidance documents publicly available in an indexed, searchable database online. As described in the **Federal Register** notice published today, CEQ has complied with this requirement through its website *whitehouse.gov/ceq/resources*.[4] As noted on this website, CEQ may not cite, use, or rely on any guidance that is not posted on its web pages except to establish historical facts. CEQ also makes clear that CEQ's guidance documents lack the force and effect of law, unless expressly authorized by statute or incorporated into a contract.

Finally, paragraph (d) of § 1519.2 requires the CEQ Office of the General Counsel to review and clear all guidance documents before CEQ issues them.

C. Section 1519.3, ''Procedures for the Public To Request Withdrawal or Modification of a Guidance Document''

Consistent with section 4(ii) of E.O. 13891, § 1519.3, ''Procedures for the public to request withdrawal or modification of a guidance document,'' addresses the process for members of the public to petition CEQ to withdraw or modify a particular guidance document, including designation of the Office of the General Counsel as the office within CEQ to which the public should direct such petitions. CEQ intends to provide additional instructions on its guidance website, including appropriate contact information and format of the petitions.

D. Section 1519.4, ''Significant Guidance Documents''

Finally, § 1519.4, ''Significant guidance documents,'' addresses specific requirements for a subset of ''guidance documents'' that are ''significant guidance documents'' as defined by section 2(c) of E.O. 13891. Paragraph (a) sets forth that definition. OMB's Office of Information and Regulatory Affairs (OIRA) makes the final determination of whether a guidance document is significant. If OIRA makes such a determination for a particular guidance document, this section will also apply. Consistent with section 4(iii) of E.O. 13891, paragraph (b) sets forth procedural requirements, including public notice and comment for at least 30 days, unless an exception applies; public response to major concerns raised in comments; approval on a non-delegable basis by the Chairman, or an official acting as Chairman; review by OIRA under Executive Order 12866; and compliance with the applicable requirements for regulations or rules.

II. Rulemaking Analyses and Notices

A. Regulatory Procedures

Under the Administrative Procedure Act, an agency may waive notice and comment procedures if an action is an interpretative rule, a general statement of policy, or a rule of agency organization, procedure, or practice. *See* 5 U.S.C. 553(b)(A). This rule describes the internal process that CEQ will follow to comply with the requirements specified in E.O. 13891 when issuing guidance documents as defined by the

[1] 84 FR 55235 (Oct. 15, 2019).

[2] OMB M–20–02 is available at *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*.

[3] E.O. 13891 section 2(b) lists the following as exclusions to the definition of guidance document. 84 FR at 55235–36.

[4] CEQ's website, *whitehouse.gov/ceq/resources*, includes links to CEQ guidance documents and resources, some of which are provided on *nepa.gov* and *sustainability.gov*.

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E.O. Because this rule is one of agency organization, procedure, or practice, it is exempt from the requirement to provide prior notice and opportunity for public comment.

B. Regulatory Planning and Review (E.O. 12866 and E.O. 13563)

E.O. 12866 provides that OIRA will review all significant rules. E.O. 13563 reaffirms the principles of E.O. 12866, calling for improvements in the Federal government's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory objectives. OMB determined that this final rule does not meet the requirements for a significant regulatory action under E.O. 12866, as supplemented by E.O. 13563, and therefore it was not subject to review.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, as amended (RFA), 5 U.S.C. 601 *et seq.,* and E.O. 13272 do not apply to this rulemaking because it is not subject to the notice and comment requirements of 5 U.S.C. 553(b).

D. Unfunded Mandates Reform Act

A statement containing the information required by the Unfunded Mandates Reform Act, 2 U.S.C. 1531 *et seq.,* is not required. This rule will not impose an unfunded mandate on State, local, or Tribal governments or the private sector of more than $100 million per year, and it will not have a significant or unique effect on State, local, or Tribal governments, or the private sector.

E. Reducing Regulation and Controlling Regulatory Costs (E.O. 13771)

This rule is not an E.O. 13771 regulatory action because this rule is not significant under E.O. 12866.

F. Federalism (E.O. 13132)

Under the criteria in section 1 of E.O. 13132, this rule will not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement because it will not substantially and directly affect the relationship between the Federal and State governments.

G. National Environmental Policy Act

The purpose of this rulemaking is to formalize the CEQ's administrative procedures for issuing guidance documents, as required by E.O. 13891. CEQ has determined that the final rule is a non-major Federal action under the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.,* and would not have any effect on the environment because it merely outlines internal CEQ administrative procedures and does not authorize any activity or commit resources to a project that may affect the environment.

H. Paperwork Reduction Act

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This rule will not impose recordkeeping or reporting requirements on State, local, or Tribal governments, individuals, businesses, or organizations.

List of Subjects in 40 CFR Part 1519

Administrative practice and procedure, Guidance.

Mary B. Neumayr,
Chairman.

■ For the reasons stated in the preamble, the Council on Environmental Quality adds 40 CFR part 1519 as follows:

PART 1519—GUIDANCE DOCUMENTS

Sec.
1519.1 Purpose.
1519.2 Guidance document procedures.
1519.3 Procedures for the public to request withdrawal or modification of a guidance document.
1519.4 Significant guidance documents.

Authority: 42 U.S.C. 4321–4347; 42 U.S.C. 4371–4375; and E.O. 13891, 84 FR 55235.

§ 1519.1 Purpose.

(a) This part implements Executive Order 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' and reflects the policies described in that order. The provisions in this part address the Council on Environmental Quality's procedures for the development and issuance of agency guidance documents. This part explains what constitutes guidance documents, and sets forth the minimum requirements for guidance documents, the procedures to request withdrawal or modification of guidance documents, and the additional requirements and procedures for significant guidance documents.

(b) This part is intended to improve the internal management of the Council on Environmental Quality. It is not intended to and does not create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its agencies or other entities, its officers or employees, or any other person.

(c) If Executive Order 13891 or any provision thereof is rescinded or superseded, this part remains in effect.

§ 1519.2 Guidance document procedures.

(a) *Definition of guidance documents.* For purposes of this part, guidance documents are agency statements of general applicability, intended to have future effect on the behavior of regulated parties, that set forth a policy on a statutory, regulatory, or technical issue, or an interpretation of a statute or regulation.

(b) *Documents excluded from the definition of guidance documents.* Guidance documents do not include:

(1) Agency statements of specific, rather than general, applicability.

(2) Agency statements that do not set forth a policy on a statutory, regulatory, or technical issue or an interpretation of a statute or regulation.

(3) Legislative rules promulgated under 5 U.S.C. 553 (or similar statutory provisions), or exempt from rulemaking requirements under 5 U.S.C. 553(a).

(4) Rules of agency organization, procedure, or practice that are not anticipated to have substantial future effect on the behavior of regulated parties or the public.

(5) Decisions of agency adjudication.

(6) Documents or agency statements that are directed solely to the Council on Environmental Quality or other agencies (or personnel of such agencies) that are not anticipated to have substantial future effect on the behavior of regulated parties or the public.

(7) Legal briefs and other court filings.

(8) Legal advice or opinions from the Council on Environmental Quality's Office of the General Counsel.

(9) Categories of guidance documents made exempt from Executive Order 13891 by the Administrator of the Office of Management and Budget's Office of Information and Regulatory Affairs through memoranda issued pursuant to section 4(b) of Executive Order 13891.

(c) *Elements of guidance documents.* In general, each guidance document must:

(1) Provide the title of the guidance document;

(2) Provide a unique document identification number;

(3) Identify the Council on Environmental Quality and any office, as appropriate, issuing the guidance document;

(4) Include the date of issuance;

(5) Include the term ''guidance'';

(6) Include a disclaimer clarifying that it does not have the force and effect of law; is not meant to bind the public in any way; and is intended only to provide clarity to the public regarding

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existing requirements under the law or agency policies. When a guidance document is binding because the law authorizes binding guidance or because a contract incorporates the guidance, the Council on Environmental Quality must modify the disclaimer to reflect accordingly;

(7) If it is a revision to or a replacement of a previously issued guidance document, identify the guidance document that it revises or replaces;

(8) Include a short summary of the subject matter covered in the guidance document at the top of the document;

(9) Identify the activities to which and the persons to whom the guidance document applies;

(10) Include the citation to the statutory provision or regulation to which the guidance document applies or which it interprets; and

(11) Be posted on the Council on Environmental Quality's website.

(d) *Review and clearance.* The Office of the General Counsel must review and clear all proposed guidance documents before issuance.

§ 1519.3 Procedures for the public to request withdrawal or modification of a guidance document.

(a) Any member of the public may petition the Council on Environmental Quality to withdraw or modify a guidance document.

(b) The petitioner must submit the request for the withdrawal or modification of a guidance document in writing to the Office of the General Counsel. The petition must contain a statement of the reasons for the petition and any supporting documents to support the petitioner's request.

(c) Upon receipt of a petition for withdrawal or modification of a guidance document, the Office of the General Counsel will consult with the relevant offices and coordinate the response to the petition.

(d) The Council on Environmental Quality should respond to a petition in writing, including electronically, within 90 days of receipt of a petition. The response should state whether the petition is granted, granted in part and denied in part, denied, or provisionally denied for lack of adequate information. If the petition is provisionally denied for lack of adequate information, the response should indicate what additional information is necessary to adjudicate the petition. The Office of the General Counsel should respond to the petition in writing no later than 90 days after receipt of the necessary additional information. The response should state whether the petition is granted, granted in part and denied in part, or denied.

(e) The Council on Environmental Quality may consider in a coordinated manner or provide a coordinated response to similar petitions for withdrawal or modification.

(f) The Council on Environmental Quality need not respond to petitions under this part for withdrawal or modification of documents that do not meet the definition of a guidance document.

§ 1519.4 Significant guidance documents.

(a) *Significant guidance documents definition.* For the purposes of this section, significant guidance documents are guidance documents that may be reasonably anticipated to:

(1) Lead to an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles of Executive Order 12866.

(b) *Actions the Council on Environmental Quality will take before issuing significant guidance documents.* When the Office of Management and Budget's Office of Information and Regulatory Affairs determines that a guidance document is a significant guidance document, the Council on Environmental Quality must:

(1) Submit the guidance document for review by the Office of Information and Regulatory Affairs under Executive Order 12866;

(2) Publish the draft significant guidance document in the **Federal Register** for a public notice and comment period of at least 30 days;

(i) This provision will not apply if the Council on Environmental Quality for good cause finds that notice and public comment is impracticable, unnecessary, or contrary to the public interest.

(ii) If such a finding is made, the Council on Environmental Quality must incorporate such a finding and a brief statement of its reasoning into the significant guidance document.

(3) Obtain approval on a non-delegable basis from the Chairman or an official who is serving in an acting capacity as the Chairman.

(4) Provide a public response to major concerns raised in comments on the draft significant guidance document.

(5) Announce the availability of the final significant guidance document.

(6) Comply with the applicable requirements for regulations or rules, including significant regulatory actions, set forth in Executive Orders 12866, ''Regulatory Planning and Review,'' 13563, ''Improving Regulation and Regulatory Review,'' 13609, ''Promoting International Regulatory Cooperation,'' 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' and 13777, ''Enforcing the Regulatory Reform Agenda.''

(c) *Exemption.* This section will not apply if the Chairman or an official who is serving in an acting capacity as the Chairman of the Council on Environmental Quality and the Administrator of the Office of Information and Regulatory Affairs agree that exigency, safety, health, or other compelling cause warrants an exemption from some or all requirements.

[FR Doc. 2020–28881 Filed 1–7–21; 8:45 am]

BILLING CODE 3225–F1–P

FEDERAL PERMITTING IMPROVEMENT STEERING COUNCIL

40 CFR Chapter IX

[Agency Docket Number 2020–001]

RIN 3121–AA01

Adding Mining as a Sector of Projects Eligible for Coverage Under Title 41 of the Fixing America's Surface Transportation Act

AGENCY: Federal Permitting Improvement Steering Council.

ACTION: Final rule.

SUMMARY: The Federal Permitting Improvement Steering Council (Permitting Council) has voted to add mining as a sector with infrastructure projects eligible for coverage under Title 41 of the Fixing America's Surface Transportation Act (FAST–41). A new part will be included in the Code of Federal Regulations that adds mining to the list of statutory FAST–41 sectors. The addition of mining as a FAST–41 sector will allow qualified mining infrastructure projects to become FAST–41 covered projects. FAST–41 coverage will help Federal agencies coordinate their environmental and project review efforts to improve the timeliness, efficiency, predictability, and transparency of the decision-making processes associated with covered

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Rules and Regulations

Federal Register
Vol. 86, No. 3
Wednesday, January 6, 2021

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 760

[Docket ID: FSA–2020–0011]

RIN 0560–AI55

Agricultural Disaster Indemnity Programs

AGENCY: Farm Service Agency (FSA), Department of Agriculture (USDA).

ACTION: Final rule.

SUMMARY: This rule establishes the Quality Loss Adjustment (QLA) Program to provide assistance to producers who suffered eligible crop quality losses due to hurricanes, excessive moisture, floods, drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. It also amends the provisions for the Wildfire and Hurricane Indemnity Program Plus (WHIP+) to be consistent with the Further Consolidated Appropriations Act, 2020, by adding excessive moisture and drought occurring in 2018 and 2019 as qualifying disaster events and clarifying eligibility of sugar beets. The changes to WHIP+ were self-enacting and were previously implemented by FSA.

DATES:

Effective date: January 6, 2021.

Comment due date: Comments are due by March 8, 2021.

ADDRESSES: We invite you to submit comments on this rule. You may submit comments by either of the following methods, although FSA prefers that you submit comments electronically through the Federal eRulemaking Portal:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and search for Docket ID FSA–2020–0011. Follow the instructions for submitting comments.
- *Mail:* Director, SND, FSA, U.S. Department of Agriculture, 1400 Independence Avenue SW, Stop 0522, Washington, DC 20250–0522. In your comment, specify the docket ID FSA–2020–0011.

Comments will be available for viewing online at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Kimberly Graham at (202) 720–6825 (voice); or by email at: *kimberly.graham@usda.gov*. Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice).

SUPPLEMENTARY INFORMATION:

Background

The Additional Supplemental Appropriations for Disaster Relief Act, 2019 (''Disaster Relief Act,'' Pub. L. 116–20) provided disaster assistance for necessary expenses related to losses of crops (including milk, on-farm stored commodities, crops prevented from planting in 2019, and harvested adulterated wine grapes), trees, bushes, and vines, as a consequence of hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. The Further Consolidated Appropriations Act, 2020 (Pub. L. 116–94), makes several changes to the provisions of the Disaster Relief Act, including:

- Specifying that assistance would be provided for crop quality losses;
- Adding excessive moisture as a qualifying disaster event;
- Adding drought as a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year; and
- Providing that sugar beet losses in 2018 and 2019 would be paid through cooperative processors (to be paid to producer members as determined by such processors).

This rule implements those provisions of the Further Consolidated Appropriations Act, 2020, by establishing the QLA Program to provide assistance for crop quality losses and amending the WHIP+ regulations to be consistent with the changes to qualifying disaster events and eligibility of sugar beet losses.

QLA Program

This rule establishes the QLA Program to provide disaster assistance for crop quality losses that were a consequence of hurricanes, excessive moisture, floods, qualifying drought, tornadoes, typhoons, volcanic activity, snowstorms, or wildfires occurring in calendar years 2018 and 2019. Eligible crops generally include crops for which FCIC crop insurance coverage or Noninsured Crop Disaster Assistance Program (NAP) coverage is available; however, value loss crops,[1] honey, and maple sap are not eligible. The QLA Program provides assistance for losses to crops that were sold or fed to livestock or are in storage; crops that were destroyed are not eligible. Assistance will be based on a producer's harvested affected production of an eligible crop that had a quality loss due to a qualifying disaster event and had at least a 5 percent quality loss due to all eligible disaster events.

Qualifying disaster events include hurricanes, floods, tornados, typhoons, volcanic activity, snowstorms, wildfires, excessive moisture, qualifying drought, and related conditions that occurred in the 2018 or 2019 calendar year. Assistance is available for eligible producers in counties that received a qualifying Presidential Emergency Disaster Declaration (declaration) or Secretarial Disaster Designation (designation) due to one or more of the qualifying disaster events or a related condition. As required by the Further Consolidated Appropriations Act, 2020, drought is only a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year (referred to as ''qualifying drought'' in this rule). Only producers in those counties that received a disaster declaration or designation qualify for the QLA Program based on the declaration or designation. Producers in counties that did not receive a qualifying declaration or designation may still apply; however, they must also provide supporting documentation to establish that the crop was directly affected by a qualifying disaster event and suffered the same

[1] Value loss crops include aquaculture, floriculture, mushrooms, ginseng root, ornamental nursery, sea grass and sea oats, Christmas trees, and turfgrass sod.

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minimum loss as required by a crop in a disaster declared or designated county. Lists of counties with Presidential Emergency Disaster Declarations and Secretarial Disaster Designations for all qualifying disaster events for 2018 and 2019 are available at *farmers.gov/quality-loss.*

FSA recognizes that a crop may suffer quality losses due to multiple disaster events in a single crop year, and the portion of a crop's quality loss that can be attributed to a specific disaster event may be difficult to determine. Therefore, while a qualifying disaster event must have caused at least a portion of the affected production's quality loss, FSA will consider the total quality loss caused by all eligible disaster events for eligibility and payment calculation purposes. Eligible disaster events for the QLA Program include those listed for NAP in 7 CFR 1437.10, except that the QLA Program does not cover losses due to insect infestation.

The QLA Program does not cover losses due to disaster events occurring after a crop was harvested or due to crop deterioration while in storage. Quality losses that could have been mitigated using good farming practices are not eligible. For example, if a producer's corn crop received a quality discount due to high moisture content, the producer could have mitigated that quality loss by using best practices for drying and storing the crop; therefore, that producer's quality loss due to high moisture is not eligible. The QLA Program does not provide assistance for losses that cannot be determined to have occurred or for losses for which a notice of loss was previously disapproved by FSA, RMA, or an approved insurance provider selling and servicing Federal crop insurance policies unless that notice of loss was disapproved solely because it was filed after the applicable deadline.

The QLA Program does not provide assistance for certain quality losses that were already compensated under a Federal crop insurance plan, NAP, or WHIP+. This includes losses to affected production of:

- Multiple market crops already compensated under crop insurance or WHIP+;
- Crops for which production used to calculate a crop insurance indemnity or WHIP+ payment was adjusted based on a comparison of the producer's sale price to the FCIC established price;
- Crops that received a crop insurance indemnity, NAP payment, or WHIP+ payment based on the quantity of production that was considered unmarketable; and
- Crops for which production was reported as salvage value or secondary use.

The QLA Program also excludes quality losses to sugar beets that were compensated through cooperative agreements with cooperative processors.

Affected production of a subsequent crop grown on double cropped acreage is only eligible if the crop has been approved as an eligible double cropping practice by the FSA State committee.

Application

FSA will accept QLA Program applications from January 6, 2021, through March 5, 2021. To apply, producers must submit a completed QLA Program application either in person, by mail, email, or facsimile to an FSA county office. To be eligible, a producer must submit a complete application, which includes all of the following:

- FSA–898, Quality Loss Adjustment (QLA) Program Application;
- FSA–899, Historical Nutritional Value Weighted Average Worksheet (only for forage crops with verifiable documentation of historical nutrient factors from the 3 preceding crop years);
- FSA–578, Report of Acreage;
- FSA–895, Crop Insurance and/or NAP Coverage Agreement; and
- Required documentation, as discussed below.

The FSA–578, FSA–895, and FSA–899 forms, and other required documentation must be submitted to the producer's county office by March 19, 2021.

If not already on file with FSA, producers must also submit the following eligibility forms for each crop year within 60 days of the date the producer signs the application:

- AD–1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification;
- CCC–902, Farm Operating Plan for Payment Eligibility;
- CCC–941 Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information; and
- CCC–942 Certification of Income from Farming, Ranching and Forestry Operations, if applicable.

Payments will not be made until all necessary eligibility documentation is received. Failure of an applicant to submit documentation timely may result in FSA not issuing a payment or, in the case of legal entities, a reduced payment if the required documentation for one or more members of the entity is not submitted timely.

Required Documentation

To support their applications, producers must submit documentation showing the quality loss and quantity of affected production by March 19, 2021. Documentation of the quality loss (total dollar value loss, grading factors, and nutrient factors, as applicable), must be verifiable. Verifiable documentation is documentation that can be verified by FSA through an independent source; FSA may verify the submitted records with records on file at the warehouse, gin, laboratory, or other entity that received or tested the reported production. Examples of acceptable, verifiable documentation include warehouse grading sheets, settlement sheets, sales receipts, and laboratory test results. Except for grain crops that have been sold, the documentation must be from laboratory tests or analysis completed within 30 days of harvest to be considered acceptable, unless the FSA county committee determines that the record is representative of the condition of the affected production within 30 days of harvest. For grain crops that were sold, the verifiable documentation can be from any time from harvest through the time of sale, unless the FSA county committee determines the record is not representative of the condition within 30 days of harvest. Producers who do not have acceptable, verifiable documentation are ineligible for the QLA Program.

For forage crops, all producers must submit verifiable documentation showing the nutrient factors for the affected production of the crop. Producers must also submit verifiable documentation of the historical nutrient factors for the 3 preceding crop years if available. The type of nutrient factors (such as relative feed value or total digestible nutrients) that must be documented for a particular crop will be determined by the FSA county committee based on the standard practice for the crop in that county. For all crops other than forage crops, producers must submit verifiable documentation of the total dollar value loss due to quality, if available, and verifiable documentation of grading factors due to quality.

Documentation to support the quantity of affected production included on the application must be verifiable for non-forage crops that receive a QLA payment based on the producer's total dollar value loss. For all other crops (non-forage crops without a producer's total dollar value loss and all forage crops), records to support the quantity of affected production must be reliable. Reliable production records means evidence provided by the participant that is used to substantiate the amount of production reported when verifiable

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records are not available, including copies of receipts, ledgers of income, income statements of deposit slips, register tapes, invoices for custom harvesting, and records to verify production costs, contemporaneous measurements, truck scale tickets, and contemporaneous diaries that are determined acceptable by the FSA county committee. To determine whether the records are acceptable, the FSA county committee will consider whether they are consistent with the records of other producers of the crop in that area.

Payment Calculation

QLA Program payments will be calculated using different formulas based on the type of crop (forage or non-forage) and based on the type of documentation submitted. All QLA payments, regardless of whether they are forage or non-forage, and the type of documentation submitted, will be calculated using a 70 percent payment factor. Payments calculated based on a county average loss, as described below, will be subject to an additional payment factor of 50 percent.

For forage crops with verifiable documentation of both the nutrient factors for the affected production and historical nutrient factors for the 3 preceding crop years, payment will be equal to the amount of the producer's total affected production multiplied by the producer's verifiable percentage of loss, multiplied by the average market price determined by FSA, multiplied by 70 percent. The producer's verifiable percentage of loss is determined by comparing the nutrient factor test results for the affected production to the average from the 3 preceding crop years, as documented on the FSA–899, Historical Nutritional Value Weighted Average Worksheet. The average market price for the QLA Program is the price used for NAP established according to 7 CFR 1437.12.

For forage crops with verifiable documentation of nutrient factors for the affected production but without historical nutrient factors for the 3 preceding crop years, the payment will be equal to the amount of the producer's total affected production multiplied by the county average percentage of loss, multiplied by the average market price determined by FSA, multiplied by 70 percent, multiplied by 50 percent.

For affected production of non-forage crops with verifiable documentation of the total dollar value loss due to quality, the QLA Program payment is equal to the producer's total dollar value loss on the affected production of the crop, multiplied by a payment factor of 70 percent.

For non-forage crops without verifiable documentation of a total dollar value loss but with verifiable documentation of grading factors due to quality, the payment will be equal to the amount of producer's affected production multiplied by the county average loss per unit of measure, multiplied by 70 percent, multiplied by 50 percent.

To determine the county average percentage of loss (for forage crops) or the county average loss per unit of measure (for non-forage crops), FSA will calculate the average loss for a crop based on losses of producers applying with verifiable documentation of historical nutritional factors (for forage crops) or the total dollar value loss (for non-forage crops) if at least 5 eligible producers submitted that documentation in the county. If less than 5 eligible producers in a county submit verifiable documentation of their historical nutritional factors or their total dollar value loss, FSA will determine a county average percentage of loss or county average loss per unit of measure based on the best available data, including losses of other QLA Program participants in contiguous counties. If sufficient data is still not available after considering other sources, FSA may determine that a county average cannot be calculated and producers in that county applying for payment under the applicable calculation are ineligible.

Payments for the QLA Program will not be issued until the application period has ended in order to allow FSA to determine the county average losses, as well as the total payments requested under the QLA Program. The Further Consolidated Appropriations Act, 2020 provides funding for the QLA Program to be available until December 31, 2021, in an amount equal to the remaining funds provided under the Bipartisan Budget Act of 2018 (Pub. L. 115–123) for losses due to Hurricanes Harvey, Irma, Maria, and other hurricanes and wildfires occurring in calendar year 2017,[2] and remaining funds provided under the Disaster Relief Act for losses due to Hurricanes Michael and Florence, other hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.[3] If the total amount of calculated QLA Program payments exceeds the amount of funding available, FSA will prorate all payments by a national factor.

A person or legal entity, other than a joint venture or general partnership, is eligible to receive, directly or indirectly, up to $125,000 per crop year in QLA Program payments. FSA will use the notification of interest provisions in 7 CFR 1400.107 and payment attribution provisions in 7 CFR 1400.105 for attributing and limiting payments to persons and legal entities. FSA will also use provisions in 7 CFR 1400.104 when changes in a farming operation result in an increase in persons to which payment limitation applies. Payments made to a joint operation (including a general partnership or joint venture) cannot exceed $250,000 per person or legal entity that comprise the ownership of the joint operation. Payments made to a legal entity will be reduced proportionately by an amount that represents the direct or indirect ownership in the legal entity by any person or legal entity that has otherwise reached the maximum payment limitation. These rules for attributing and limiting payments are consistent with the programs FSA administers on behalf of the Commodity Credit Corporation.

A person or legal entity, other than a joint venture or general partnership, is ineligible for a 2018, 2019, or 2020 payment if the person's or legal entity's average adjusted gross income (AGI) is more than $900,000, unless at least 75 percent of that person's or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. The average AGI for each of the program years 2018, 2019, or 2020, is determined using the average of the adjusted gross incomes for the 3 taxable years preceding the most immediately preceding taxable year. For example, for the 2019 program year, the producer's AGI would be based on the 2015, 2016, and 2017 tax years. If at least 75 percent of the person's or legal entity's AGI is derived from farming, ranching, or forestry-related activities and the participant provides the required certification and documentation, the person or legal entity is eligible to

[2] FSA provided assistance for losses due to Hurricanes Harvey, Irma, Maria, and other hurricanes and wildfires occurring in calendar year 2017 through the 2017 Wildfires and Hurricanes Indemnity Program (2017 WHIP) (final rule published July 18, 2018, 83 FR 33795–33809) and the Florida Citrus Recovery Grant Program.

[3] FSA has previously provided assistance for losses due to Hurricanes Michael and Florence, other hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019 through the Wildfires and Hurricanes Indemnity Program Plus (WHIP+), On-Farm Storage Loss Program, and Milk Loss Program (final rule published September 13, 2019, 84 FR 48518–48537), as well as through several grants and cooperative agreements with sugar beet cooperatives.

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receive QLA Program payments up to the applicable payment limitation noted above. With respect to joint ventures and general partnerships, this AGI provision will be applied to each member of the joint venture and general partnership.

Requirement to Purchase Crop Insurance or NAP Coverage

The Disaster Relief Act requires all participants who receive QLA Program payments to purchase crop insurance or NAP coverage for the next 2 available crop years. The latest year for meeting compliance with this provision will be the 2023 crop year. In other words, if the 2 consecutive years of coverage are not met by 2023 coverage year, the participant is ineligible for and must refund QLP Program payments. Participants must obtain crop insurance or NAP, as may be applicable, at the 60 percent coverage level or higher. In situations where crop insurance is unavailable for a crop, the Disaster Relief Act requires that a QLA Program participant obtain NAP coverage. Section 1001D of the Food Security Act of 1985 (1985 Farm Bill) provides that a person or entity with AGI in amount greater than $900,000 is not eligible to participate in NAP; however, producers with an AGI greater than $900,000 may be eligible for the QLA Program if at least 75 percent of that person's or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. Accordingly, in order to reconcile this restriction in the 1985 Farm Bill and the Disaster Relief Act's requirement to obtain NAP or crop insurance coverage, QLA Program participants may meet the Disaster Relief Act's purchase requirement by purchasing Whole-Farm Revenue Protection crop insurance coverage, if eligible, or they may pay the applicable NAP service fee and premium for the 60 percent coverage level despite their ineligibility for a NAP payment. In other words, the service fee and premium must be paid even though no NAP payment may be made because the AGI of the person or entity exceeds the 1985 Farm Bill limitation.

The crop insurance and NAP coverage requirements are specific to the crop and county (county where the crop is physically located for insurance and administrative county for NAP) for which QLA Program payments are paid. This means that a producer is required to purchase crop insurance or NAP coverage for the crop in the county for which the producer was issued a QLA Program payment. Producers who receive a payment on a crop in a county and who have the crop or crop acreage in subsequent years, as provided in this rule, and who fail to obtain the 2 years of crop insurance or NAP coverage must refund all QLA Program payments for that crop in that county with interest from the date of disbursement. This is a condition of payment eligibility specified by Disaster Relief Act and is therefore not subject to partial payment eligibility or other types of equitable relief. Producers who were paid under the QLA Program for a crop in a county but do not plant that crop in a subsequent year are not subject to the crop insurance or NAP purchase requirement. WHIP+ participants who already met the requirement to purchase crop insurance or NAP coverage as specified in 7 CFR 760.1517 are considered to have also met the requirement to purchase crop insurance or NAP coverage for QLA Program purposes, and they are not required to obtain additional years of crop insurance or NAP coverage as a result of also receiving a QLA Program payment for that crop.

Applicable general eligibility requirements, including recordkeeping requirements and required compliance with HELC and Wetland Conservation provisions, are similar to those for the previous ad hoc crop disaster programs and current permanent disaster programs. All information provided to FSA for program eligibility and payment calculation purposes, including production records, is subject to spot check.

WHIP+

FSA, on behalf of the Secretary of Agriculture, previously implemented provisions of the Disaster Relief Act by establishing WHIP+ through a final rule published on September 19, 2019 (84 FR 48518–48537). The Disaster Relief Act provided assistance for losses of crops, trees, bushes, and vines, as a consequence of hurricanes, floods, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019. WHIP+ covers only production losses of crops except in specific circumstances discussed previously in this document when the producer may have also been compensated for quality losses.

This rule amends 7 CFR 760.1500(c) and the definition of ''qualifying disaster event'' in § 760.1502 to include excessive moisture and qualifying drought. As under the QLA Program, drought is only considered a qualifying disaster event if an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year. This rule adds definitions of ''qualifying drought'' and ''U.S. Drought Monitor'' in § 760.1502.

The addition of these qualifying disaster events for WHIP+ was self-enacting as the text in the law clearly specified the required changes without need for interpretation; therefore, FSA began the sign-up period for losses due to excessive moisture and qualifying drought on March 23, 2020, and sign-up ended on October 30, 2020. Producers applying for WHIP+ assistance for losses due to excessive moisture or qualifying drought were required to meet all requirements in 7 CFR part 760, subpart O, including the requirement to purchase crop insurance for 2 years as specified in § 760.1517.

The Further Consolidated Appropriations Act, 2020 also directed the Secretary to pay sugar beet losses in 2018 and 2019 through cooperative processors. FSA has established cooperative agreements with sugar beet processors; those processors will be responsible for distributing assistance to their members. This rule amends the eligibility provisions in § 760.1517 to specify that members of cooperatives are not eligible for a WHIP+ payment for sugar beet losses.

FSA is also updating § 760.1510(a) to reflect the application deadline of October 30, 2020, and correcting references in §§ 760.1508(c) and (f) and 760.1511(a)(6).

Notice and Comment and Effective Date

The Administrative Procedure Act (5 U.S.C. 553) provides that the notice and comment and 30-day delay in the effective date provisions do not apply when the rule involves a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts. This rule involves programs for payments to certain agricultural commodity producers and therefore falls within that exemption. Due to the nature of the rule and the need to implement the regulations expeditiously to provide assistance to agricultural producers, FSA finds that notice and public procedure are contrary to the public interest. Therefore, even though this rule is a major rule for purposes of the Congressional Review Act, FSA is not required to delay the effective date for 60 days from the date of publication to allow for Congressional review. Therefore, this rule is effective upon publication in the **Federal Register**.

Executive Orders 12866, 13563, 13771 and 13777

Executive Order 12866, ''Regulatory Planning and Review,'' and Executive

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Order 13563, ''Improving Regulation and Regulatory Review,'' direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasized the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. Executive Order 13777, ''Enforcing the Regulatory Reform Agenda,'' established a Federal policy to alleviate unnecessary regulatory burdens on the American people.

The Office of Management and Budget (OMB) designated this rule as economically significant under Executive Order 12866, and therefore, OMB has reviewed this rule. The costs and benefits of this rule are summarized below. The full cost benefit analysis is available on *regulations.gov.*

Executive Order 13771, titled Reducing Regulation and Controlling Regulatory Costs, was issued on January 30, 2017. The OMB guidance in M–17–21, dated April 5, 2017, specifies that ''transfers'' are not covered by Executive Order 13771 but that requirements imposed apart from transfers in transfer rules may qualify as costs or cost savings under Executive Order 13771, for example the information collection requirements in this rule. This rule is not subject to the requirements of E.O. 13771 because this rule results in no more than de minimis costs.

Cost Benefit Analysis Summary

WHIP+ initially provided approximately $3 billion in supplemental assistance to producers for qualifying agricultural production losses. In the Further Consolidated Appropriations Act, 2020, Congress changed provisions of the Disaster Relief Act as follows:

1. Extended eligibility under WHIP+ to also cover [4]—

a. Crop production losses due to excessive moisture in calendar years 2018 and 2019;

b. Crop production losses due to drought in calendar years 2018 and 2019 if the area within the county in which the loss occurred was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year;

2. Provided assistance for sugar beet losses in 2018 and 2019 to be paid through cooperative processors; [5] and

3. Authorized assistance for crop quality losses that occurred in calendar years 2018 and 2019 through the QLA Program (implemented by this rule).

Eligible crops under the QLA Program include crops for which Federal crop insurance or NAP coverage is available. To be eligible for the QLA Program, a crop must have suffered a quality loss due to a qualifying disaster event and had at least a 5 percent quality discount due to a combination of the qualifying disaster event and any other QLA-eligible causes of loss. Eligible crops may have been sold, fed on farm to livestock, or been in storage at the time of application.

USDA estimates the Further Consolidated Appropriations Act, 2020 will provide approximately $950 million for the continuation of disaster assistance program delivery, including payments to eligible producers for production losses due to excessive moisture and extreme drought under WHIP+ and for quality losses covered by the QLA Program. Of that amount, USDA anticipates that an estimated $500 million will be available for QLA Program payments. However, the amount of funding ultimately available for the QLA Program will not be known until other payments, for example for excessive moisture and drought under WHIP+, are finalized.

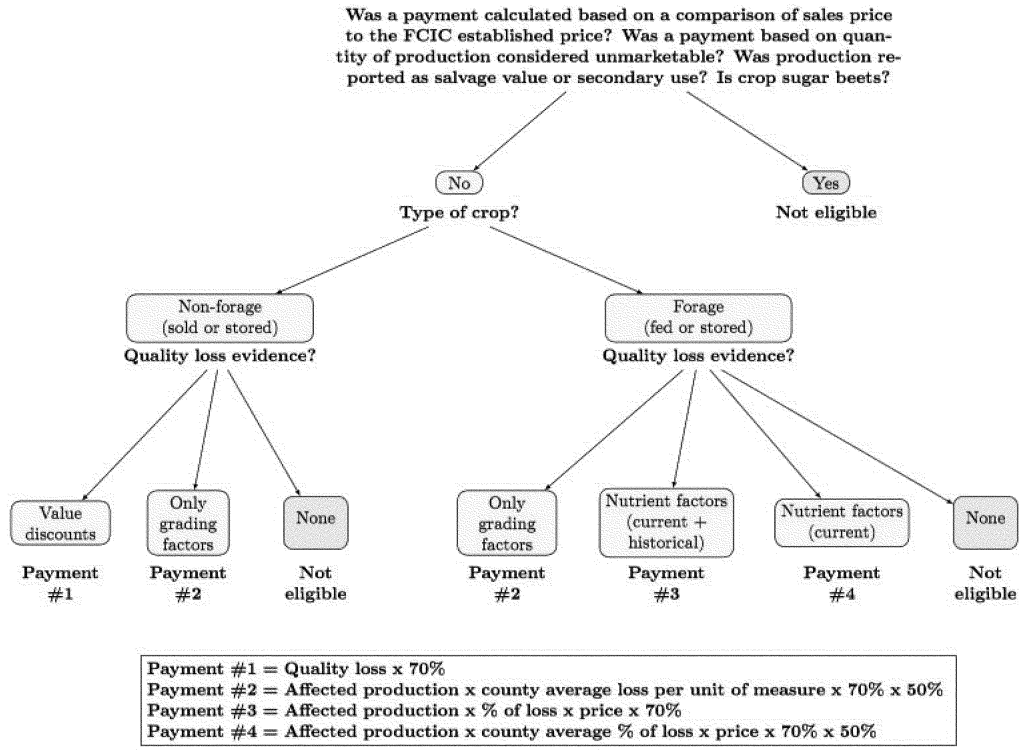
The QLA Program payment calculation depends on several factors, as shown in Figure 1. A producer is ineligible for a QLA Program payment if they received a crop insurance indemnity, NAP payment, or WHIP+ payment for a crop that was unmarketable, sold for salvage value or secondary use, or if the payment was based on a comparison of the sales price of the affected production and the applicable reference price. Otherwise, payments or benefits received under the Federal crop insurance, NAP or WHIP+ do not affect a producer's eligibility or payment received from the QLA Program. The payment calculation depends on the use of production (non-forage or forage) and evidence at hand of the crop quality loss. Producers who do not have evidence of the quality loss are ineligible.

[4] The addition of excessive moisture and certain drought conditions as qualifying causes of loss under WHIP+ is specific, not open to interpretation, and is therefore self-enacting. Accordingly, the provision was previously implemented. FSA began the sign-up period on March 23, 2020, and sign-up ended on October 30, 2020.

[5] Assistance for sugar beet losses for members of cooperative processors is provided through a separate program.

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Figure 1. Eligibility and Payment Calculation



Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA, Pub. L. 104–121), generally requires an agency to prepare a regulatory flexibility analysis of any rule whenever an agency is required by the Administrative Procedure Act or any other law to publish a proposed rule, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule is not subject to the Regulatory Flexibility Act because USDA is not required by Administrative Procedure Act or any law to publish a proposed rule for this rulemaking.

Environmental Review

The environmental impacts of this final rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and the FSA regulation for compliance with NEPA (7 CFR part 799). The legislative intent for implementing the QLA Program is to provide assistance to producers who suffered eligible crop quality losses due to hurricanes, excessive moisture, floods, drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.

While OMB has designated this rule as ''economically significant'' under Executive Order 12866, ''economic or social effects are not intended by themselves to require preparation of an environmental impact statement'' (see 40 CFR 1502.16(b)), when not interrelated to natural or physical environmental effects.

For this rule, the FSA Categorical Exclusions found in 7 CFR 799.31 apply, specifically 7 CFR 799.31(b)(6)(iii), (iv), and (vi) (that is, § 799.31(b)(6)(iii) Financial assistance to supplement income, manage the supply of agricultural commodities, or influence the cost or supply of such commodities or programs of a similar nature or intent (that is, price support programs); § 799.31(b)(6)(iv) Individual farm participation in FSA programs where no ground disturbance or change in land use occurs as a result of the proposed action or participation; and § 799.31(b)(6)(vi) Safety net programs administered by FSA). No Extraordinary Circumstances (7 CFR 799.33) exist.

For the outlined reasons, FSA has determined that the implementation of the QLA Program and the participation in the QLA Program does not constitute a major Federal action that would significantly affect the quality of the human environment, individually or cumulatively. Therefore, FSA will not prepare an environmental assessment or environmental impact statement for this regulatory action.

Executive Order 12372

Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' requires consultation with State and local officials that would be directly affect by proposed Federal financial assistance. The objectives of the Executive order are to foster an intergovernmental partnership and a strengthened federalism, by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance and direct Federal development. For reasons specified in the final rule related notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), the programs and activities

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within this rule are excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, ''Civil Justice Reform.'' This rule will not preempt State or local laws, regulations, or policies unless they represent an irreconcilable conflict with this rule. The rule will not have retroactive effect. Before any judicial action may be brought regarding the provisions of this rule, the administrative appeal provisions of 7 CFR parts 11 and 780 must be exhausted.

Executive Order 13132

This rule has been reviewed under Executive Order 13132, ''Federalism.'' The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, except as required by law. Nor does this rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

Executive Order 13175

This rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

The USDA's Office of Tribal Relations (OTR) has assessed the impact of this rule on Indian Tribes and determined that this rule may have significant Tribal implications that require ongoing adherence to Executive Order 13175. OTR notes that the programs are similar to programs that have been administered by FSA and RMA in the past; having not heard any concerns regarding the administration of these in the past, and the fact that provisions are mandated in the Disaster Relief Act, OTR recommended that consultation is not required at this time. Tribes can request consultation at any time. FSA will work with OTR to ensure meaningful consultation is provided where changes, additions, and modifications identified in this rule are not expressly mandated by law.

The Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA, Pub. L. 104–4) requires Federal agencies to assess the effects of their regulatory actions on State local, and Tribal governments or the private sector. Agencies generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with Federal mandates that may result in expenditures of $100 million or more in any 1 year for State, local, or Tribal governments, in the aggregate, or to the private sector. UMRA generally requires agencies to consider alternatives and adopt the more cost effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates, as defined in Title II of UMRA, for State, local, and Tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, FSA submitted the QLA Program information collection request to OMB for emergency approval. OMB approved the 6-month emergency information collection.

E-Government Act Compliance

FSA is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

Federal Assistance Programs

The titles and numbers of the Federal Domestic Assistance Program found in the Catalog of Federal Domestic Assistance to which this rule applies are:

10.129—Wildfire and Hurricanes Indemnity Program Plus
10.133—Quality Loss Adjustment Program

List of Subjects in 7 CFR Part 760

Dairy products, Indemnity payments, Reporting and recordkeeping requirements.

For the reasons discussed above, FSA amends 7 CFR part 760 as follows:

PART 760—INDEMNITY PAYMENT PROGRAMS

■ 1. Revise the authority citation for part 760 to read as follows:

Authority: 7 U.S.C. 4501 and 1531; 16 U.S.C. 3801, note; 19 U.S.C. 2497; Title III, Pub. L. 109–234, 120 Stat. 474; Title IX, Pub. L. 110–28, 121 Stat. 211; Sec. 748, Pub. L. 111–80, 123 Stat. 2131; Title I, Pub. L. 115–123, 132 Stat. 65; Title I, Pub. L. 116–20, 133 Stat. 871; and Division B, Title VII, Pub. L. 116–94, 133 Stat. 2658.

Subpart O—Agricultural Disaster Indemnity Programs

§ 760.1500 [Amended]

■ 2. In § 760.1500(c), remove the words ''and wildfires'' and add ''wildfires, excessive moisture, and qualifying drought'' in their place.

■ 3. Amend § 760.1502 as follows:

■ a. In the definition of ''Qualifying disaster event'', in paragraph (2) of remove the word ''wildfire'' and add ''wildfire, excessive moisture, qualifying drought'' in its place; and

■ b. Add the definitions of ''Qualifying drought'' and ''U.S. Drought Monitor'' in alphabetical order.

The additions read as follows:

§ 760.1502 Definitions.

* * * * *

Qualifying drought means an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year.

* * * * *

U.S. Drought Monitor is a system for classifying drought severity according to a range of abnormally dry to exceptional drought. It is a collaborative effort between Federal and academic partners, produced on a weekly basis, to synthesize multiple indices, outlooks, and drought impacts on a map and in narrative form. This synthesis of indices is reported by the National Drought Mitigation Center at *http://droughtmonitor.unl.edu.*

* * * * *

■ 4. In § 760.1503, add paragraph (j) to read as follows.

§ 760.1503 Eligibility.

* * * * *

(j) Members of cooperative processors are not eligible for WHIP+ assistance for sugar beet losses.

§ 760.1508 [Amended]

■ 5. Amend § 760.1508 as follows:

■ a. In paragraph (c), remove the cross reference ''paragraph (b)(1)'' and add the cross reference ''paragraph (b)'' in its place; and

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■ b. In paragraph (f), remove the cross reference ''paragraph (b)(1)'' and add cross reference ''paragraph (e)'' in its place.

§ 760.1510 [Amended]

■ 6. In § 760.1510(a), remove the words ''a date that will be announced by the Deputy Administrator'' and add ''October 30, 2020'' in their place.

§ 760.1511 [Amended]

■ 7. In § 760.1511(a)(6), remove the cross reference ''paragraph (f)'' and add cross reference ''paragraph (g)'' in its place.

■ 8. Add subpart R, consisting of §§ 760.1800 through 760.1814, to read as follows:

Subpart R—Quality Loss Adjustment Program

Sec.

760.1800 Applicability.
760.1801 Administration.
760.1802 Definitions.
760.1803 Participant eligibility.
760.1804 Eligibility of affected production.
760.1805 Qualifying disaster events.
760.1806 Ineligible losses.
760.1807 Miscellaneous provisions.
760.1808 General provisions.
760.1809 Payment and adjusted gross income limitation.
760.1810 Time and method of application.
760.1811 Required documentation and verification.
760.1812 Payment calculation.
760.1813 Availability of funds and timing of payments.
760.1814 Requirement to purchase crop insurance or NAP coverage.

§ 760.1800 Applicability.

This subpart specifies the terms and conditions for the Quality Loss Adjustment (QLA) Program. The QLA Program provides disaster assistance for crop quality losses that were a consequence of hurricanes, excessive moisture, floods, qualifying drought, tornadoes, typhoons, volcanic activity, snowstorms, and wildfires occurring in calendar years 2018 and 2019.

§ 760.1801 Administration.

(a) The QLA Program is administered under the general supervision of the Administrator, Farm Service Agency (FSA), and the Deputy Administrator for Farm Programs, FSA. The QLA Program is carried out by FSA State and county committees with instructions issued by the Deputy Administrator.

(b) FSA State and county committees, and representatives and their employees, do not have authority to modify or waive any of the provisions of the regulations in this subpart or instructions issued by the Deputy Administrator.

(c) The FSA State committee will take any action required by the regulations in this subpart that the FSA county committee has not taken. The FSA State committee will also:

(1) Correct, or require an FSA county committee to correct, any action taken by the FSA county committee that is not in accordance with the regulations in this subpart; or

(2) Require an FSA county committee to withhold taking any action that is not in accordance with this subpart.

(d) No delegation to an FSA State or county committee precludes the FSA Administrator or the Deputy Administrator from determining any question arising under this subpart or from reversing or modifying any determination made by an FSA State or county committee.

(e) The Deputy Administrator has the authority to:

(1) Permit State and county committees to waive or modify a non-statutory deadline specified in this subpart; and

(2) Delegate authority to FSA State or county committees to make determinations under § 760.1812(f) and (g).

(f) Items of general applicability to program participants, including, but not limited to, application periods, application deadlines, internal operating guidelines issued to FSA State and county offices, prices, and payment factors established under this subpart, are not subject to appeal in accordance with part 780 of this chapter.

§ 760.1802 Definitions.

The following definitions apply to this subpart. The definitions in §§ 718.2 and 1400.3 of this title also apply, except where they conflict with the definitions in this section. In the event of conflict, the definitions in this section apply.

Affected production means the producer's ownership share of harvested production of an eligible crop, adjusted to standard moisture as established by the U.S. Grains Standards Act, a State regulatory agency, or industry standard, that had both:

(1) A quality loss due to a qualifying disaster event; and

(2) At least a 5 percent quality loss due to all eligible disaster events.

Average market price means the average market price determined according to § 1437.12 of this title.

Coverage level means the percentage determined by multiplying the elected yield percentage under a crop insurance policy or NAP coverage by the elected price percentage.

Crop insurance means an insurance policy reinsured by FCIC under the provisions of the Federal Crop Insurance Act, as amended. It does not include private plans of insurance.

Crop insurance indemnity means, for the purpose of this subpart, the payment to a participant for crop losses covered under crop insurance administered by RMA in accordance with the Federal Crop Insurance Act (7 U.S.C. 1501–1524).

Crop year means:

(1) For insurable crops, the crop year as defined according to the applicable crop insurance policy; and

(2) For NAP-eligible crops, the crop year as defined in § 1437.3 of this title.

Eligible crop means a crop for which coverage was available either from FCIC under part 400 of this title, or through NAP under § 1437.4 of this title.

Eligible disaster event means a disaster event that is an eligible cause of loss specified in § 1437.10 of this title, excluding insect infestation.

FCIC means the Federal Crop Insurance Corporation, a wholly owned Government Corporation of USDA, administered by RMA.

FSA means the Farm Service Agency, an agency of USDA.

Grading factor means a factor that describes the physical condition or a feature that is evaluated to determine the quality of the production, such as broken kernels and low-test weight.

Good farming practices means the cultural practices generally recognized as compatible with agronomic and weather conditions and used for the crop to make normal progress toward maturity, as determined by FSA. These practices are:

(1) For conventional farming practices, those generally recognized by agricultural experts for the area, which could include one or more counties; or

(2) For organic farming practices, those generally recognized by the organic agricultural experts for the area or contained in the organic system plan that is in accordance with the National Organic Program specified in part 205 of this title.

Harvested means:

(1) For insurable crops, harvested as defined according to the applicable crop insurance policy;

(2) For NAP-eligible single harvest crops, that a crop has been removed from the field, either by hand or mechanically;

(3) For NAP-eligible crops with potential multiple harvests in 1 year or harvested over multiple years, that the producer has, by hand or mechanically, removed at least 1 mature crop from the field during the crop year; and

(4) For mechanically harvested NAP-eligible crops, that the crop has been

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removed from the field and placed in a truck or other conveyance, except hay is considered harvested when in the bale, whether removed from the field or not.

Insurable crop means an agricultural crop (excluding livestock) for which the producer on a farm is eligible to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501–1524).

Multiple market crop means a crop that is delivered to a single market but can have fresh and processed prices based on grading. For example, a producer may intend to sell all production of an apple crop as fresh production; however, based on grading of the crop at the market, the producer is compensated for some production at the fresh price and for some production at the processing price.

Multiple planting means the planting for harvest of the same crop in more than one planting period in a crop year on different acreage.

NAP means the Noninsured Crop Disaster Assistance Program under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) and part 1437 of this title.

NAP-eligible crop means an agricultural crop for which the producer on a farm is eligible to obtain NAP coverage.

NAP service fee means the amount specified in § 1437.7 of this title that the producer must pay to obtain NAP coverage.

Nutrient factor means a factor determined by a test that measures the nutrient value of a crop to be fed to livestock. Examples include, but are not limited to, relative feed value and total digestible nutrients.

Production means quantity of the crop produced, which is expressed in a specific unit of measure including, but not limited to, bushels or pounds.

QLA Program means the Quality Loss Adjustment Program.

Qualifying disaster event means a hurricane, flood, tornado, typhoon, volcanic activity, snowstorm, wildfire, excessive moisture, qualifying drought, or a related condition that occurred in the 2018 or 2019 calendar year.

Qualifying drought means an area within the county was rated by the U.S. Drought Monitor as having a D3 (extreme drought) or higher level of drought intensity during the applicable calendar year.

Quality loss means:

(1) For forage crops, a reduction in an applicable nutrient factor for the crop; and

(2) For crops other than forage, a reduction in the total dollar value of the crop due to reduction in the physical condition of the crop indicated by an applicable grading factor.

Related condition means damaging weather or an adverse natural occurrence that occurred as a direct result of a specified qualifying disaster event, such as excessive rain, high winds, flooding, mudslides, and heavy smoke, as determined by the Deputy Administrator. The term does not include insect infestation.

Reliable production record means evidence provided by the participant that is used to substantiate the amount of production reported when verifiable records are not available, including copies of receipts, ledgers of income, income statements of deposit slips, register tapes, invoices for custom harvesting, and records to verify production costs, contemporaneous measurements, truck scale tickets, and contemporaneous diaries that are determined acceptable by the FSA county committee. To determine whether the records are acceptable, the FSA county committee will consider whether they are consistent with the records of other producers of the crop in that area.

RMA means the Risk Management Agency, an agency of USDA.

Salvage value means the dollar amount or equivalent for the quantity of the commodity that cannot be marketed or sold in any recognized market for the crop.

Secondary use means the harvesting of a crop for a use other than the intended use.

Unit of measure means:

(1) For insurable crops, the FCIC-established unit of measure; and

(2) For NAP-eligible crops, the established unit of measure used for the NAP price and yield.

USDA means the U.S. Department of Agriculture.

U.S. Drought Monitor is a system for classifying drought severity according to a range of abnormally dry to exceptional drought. It is a collaborative effort between Federal and academic partners, produced on a weekly basis, to synthesize multiple indices, outlooks, and drought impacts on a map and in narrative form. This synthesis of indices is reported by the National Drought Mitigation Center at *http://droughtmonitor.unl.edu.*

Value loss crop has the meaning specified in subpart D of part 1437 of this title.

Verifiable documentation means evidence that can be verified by FSA through an independent source.

Verifiable percentage of loss is the percentage of loss determined by comparing the applicable nutrient factors for a producer's affected production of a forage crop with the average of such nutrient factors from the 3 preceding crop years, as documented on FSA–899, Historical Nutritional Value Weighted Average Worksheet.

WHIP+ means the Wildfires and Hurricanes Indemnity Program Plus under subpart O of this part.

§ 760.1803 Participant eligibility.

(a) Participants will be eligible to receive a payment under this subpart only if they incurred a loss to an eligible crop due to a qualifying disaster event, as further specified in this subpart.

(b) To be an eligible participant under this subpart, a person or legal entity must be a:

(1) Citizen of the United States;

(2) Resident alien; for purposes of this subpart, resident alien means ''lawful alien'' (see § 1400.3 of this title);

(3) Partnership consisting solely of citizens of the United States or resident aliens; or

(4) Corporation, limited liability company, or other similar organizational structure organized under State law consisting solely of citizens or resident aliens of the United States.

(c) If any person who would otherwise be eligible to receive a payment dies before the payment is received, payment may be released as specified in § 707.3 of this chapter. Similarly, if any person or legal entity who would otherwise have been eligible to apply for a payment dies or is dissolved, respectively, before the payment is applied for, payment may be released in accordance with this subpart if a timely application is filed by an authorized representative. Proof of authority to sign for the deceased producer or dissolved entity must be provided. If a participant is now a dissolved general partnership or joint venture, all members of the general partnership or joint venture at the time of dissolution or their duly authorized representatives must sign the application. Eligibility of such participant will be determined, as it is for other participants, based upon ownership share and risk in producing the crop.

(d) An ownership share is required to be eligible for a payment under this subpart. Growers growing eligible crops under contract for crop owners are not eligible for a payment under this subpart unless the grower is also determined to have an ownership share of the crop. Any verbal or written contract that precludes the grower from having an ownership share renders the

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grower ineligible for payments under this subpart.

(e) A person or legal entity is not eligible to receive assistance under this subpart if FSA determines that the person or legal entity:

(1) Adopted any scheme or other device that tends to defeat the purpose of this subpart or any of the regulations applicable to this subpart;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a program determination under any or all of the following: This subpart and parts 12, 400, 1400, and 1437 of this title.

(f) A person who is ineligible for crop insurance or NAP under § 400.458 or § 1437.16 of this title, respectively, for any year is ineligible for payments under this subpart for the same year.

(g) The provisions of § 718.11 of this chapter, providing for ineligibility for payments for offenses involving controlled substances, apply.

(h) As a condition of eligibility to receive payments under this subpart, the participant must have been in compliance with the Highly Erodible Land Conservation and Wetland Conservation provisions of part 12 of this title for the applicable crop year for which the producer is applying for benefits under this subpart, and must not otherwise be precluded from receiving payments under part 12, 400, 1400, or 1437 of this title or any law.

§ 760.1804 Eligibility of affected production.

(a) To be eligible for the QLA Program, an eligible crop's affected production must have suffered a quality loss due to a qualifying disaster event and had at least a 5 percent quality loss due to all eligible disaster events. Whether affected production of a crop had a 5 percent loss will be determined separately for crops with different crop types, intended uses, certified organic or conventional status, county, and crop year.

(b) Affected production of the following is not eligible for the QLA Program:

(1) Crops that were not grown commercially;

(2) Crops that were intended for grazing or were grazed;

(3) Crops not intended for harvest;

(4) Volunteer crops;

(5) Value loss crops;

(6) Maple sap;

(7) Honey;

(8) By-products resulting from processing or harvesting a crop, such as, but not limited to, cotton seed, peanut shells, wheat or oat straw, or corn stalks or stovers;

(9) First-year seeding for forage production;

(10) Immature fruit crops;

(11) Crops for which FCIC coverage or NAP coverage is unavailable;

(12) Multiple market crops for which the producer previously received a crop insurance indemnity or WHIP+ payment for a quality loss;

(13) Crops for which production used to calculate a crop insurance indemnity or WHIP+ payment was adjusted based on a comparison of the producer's sale price to FCIC established price;

(14) Crops that received a crop insurance indemnity, NAP payment, or WHIP+ payment based on the quantity of production that was considered unmarketable;

(15) Crops for which the producer previously received a crop insurance indemnity, NAP payment, or WHIP+ payment for which production was reported as salvage value or secondary use;

(16) Sugar beets for which a member of a cooperative processor received a payment through a cooperative agreement; and

(17) Crops that were destroyed.

(c) Only affected production from initial crop acreage will be eligible for a QLA Program payment, unless the provisions for subsequent crops in this section are met. All plantings of an annual or biennial crop are considered the same as a planting of an initial crop in tropical regions as defined in part 1437, subpart F, of this title.

(d) In cases where there is double cropped acreage, affected production of each crop may be eligible only if the specific crops are approved by the FSA State committee as eligible double cropping practices in accordance with procedures approved by the Deputy Administrator.

(e) Participants having affected production from multiple plantings may receive payments for each planting only if the planting meets the requirements of part 1437 of this title and all other provisions of this subpart are satisfied.

§ 760.1805 Qualifying disaster events.

(a) A producer is eligible for payments under this subpart only if the producer's affected production of an eligible crop suffered a crop quality loss due to a qualifying disaster event.

(b) A crop quality loss due to a qualifying disaster event must have occurred on acreage that was physically located in a county that received a:

(1) Presidential Emergency Disaster Declaration authorizing public assistance for categories C through G or individual assistance due to a qualifying disaster event occurring in the 2018 or 2019 calendar years; or

(2) Secretarial Disaster Designation for a qualifying disaster event occurring in the 2018 or 2019 calendar years.

(c) A producer with a crop quality loss on acreage not physically located in a county that was eligible under paragraph (b) of this section will be eligible for the QLA Program for losses due to qualifying disaster events only if the producer provides supporting documentation from which the FSA county committee determines that the crop quality loss on the unit was reasonably related to a qualifying disaster event as specified in this subpart. Supporting documentation may include furnishing climatological data from a reputable source or other information substantiating the claim of loss due to a qualifying disaster event.

§ 760.1806 Ineligible losses.

(a) A loss is not eligible under this subpart if any of the following apply:

(1) The cause of loss is determined by FSA to be the result of poor management decisions, poor farming practices, or drifting herbicides;

(2) The loss could have been mitigated using good farming practices, including losses due to high moisture content that could be mitigated by following best practices for drying and storing the crop;

(3) The qualifying disaster event occurred after the crop was harvested;

(4) FSA or RMA have previously disapproved a notice of loss for the crop and disaster event, unless that notice of loss was disapproved solely because it was filed after the applicable deadline; or

(5) The cause of loss was due to:

(i) Conditions or events occurring outside of the applicable growing season for the crop;

(ii) Insect infestation;

(iii) Water contained or released by any governmental, public, or private dam or reservoir project if an easement exists on the acreage affected by the containment or release of the water;

(iv) Failure of a power supply or brownout; or

(v) Failure to harvest or market the crop due to lack of a sufficient plan or resources.

(b) [Reserved]

§ 760.1807 Miscellaneous provisions.

(a) All persons with a financial interest in a legal entity receiving payments under this subpart are jointly and severally liable for any refund, including related charges, that is determined to be due to FSA for any reason.

(b) In the event that any application under this subpart resulted from

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erroneous information or a miscalculation, the payment will be recalculated and any excess refunded to FSA with interest to be calculated from the date of the disbursement.

(c) Any payment to any participant under this subpart will be made without regard to questions of title under State law, and without regard to any claim or lien against the commodity, or proceeds, in favor of the owner or any other creditor except agencies of the U.S. Government. The regulations governing offsets and withholdings in part 3 of this chapter apply to payments made under this subpart.

(d) Any participant entitled to any payment may assign any payment(s) in accordance with regulations governing the assignment of payments in part 3 of this chapter.

(e) The regulations in parts 11 and 780 of this title apply to determinations under this subpart.

§ 760.1808 General provisions.

(a) Eligibility and payments under this subpart will be determined based on the county where the affected production was harvested.

(b) FSA county committees will make any necessary adjustments to the applicant's affected production and other information on the application form used to calculate a payment when the county committee determines:

(1) Additional documentation has been requested by FSA but has not been provided by the participant;

(2) The loss is due to an ineligible cause; or

(3) The participant has a contract providing a guaranteed payment for all or a portion of the crop.

(c) Unless otherwise specified, all eligibility provisions of part 1437 of this title also apply to tropical crops for eligibility under this subpart.

(d) FSA will use the most reliable data available at the time payments under this subpart are calculated. If additional data or information is provided or becomes available after a payment is issued, FSA will recalculate the payment amount and the producer must return any overpayment amount to FSA. In all cases, payments can only issue based on the payment formula for losses that affirmatively occurred.

(e) Production that is commingled between counties, crop years, or ineligible and eligible acres before it was a matter of record or combination of record and cannot be separated by using records or other means acceptable to FSA will be prorated to each respective year, county, or type of acreage, respectively.

§ 760.1809 Payment and adjusted gross income limitation.

(a) A person or legal entity, other than a joint venture or general partnership, is eligible to receive, directly or indirectly, payments of not more than $125,000 for each of the 2018, 2019, and 2020 crop years under this subpart.

(b) Payments made to a joint operation, including a joint venture or general partnership, cannot exceed the amount determined by multiplying the maximum payment amount specified in paragraph (a) of this section by the number of persons and legal entities, other than joint operations, that comprise the ownership of the joint operation.

(c) The direct attribution provisions in § 1400.105 of this title apply to payments under this subpart.

(d) The notification of interest provisions in § 1400.107 of this title apply to payments under this subpart.

(e) The provisions for recognizing persons added to a farming operation for payment limitation purposes as described in § 1400.104 of this title apply to payments under this subpart.

(f) The $900,000 average AGI limitation provisions in part 1400 of this title relating to limits on payments for persons or legal entities, excluding joint ventures and general partnerships, apply to each applicant for the QLA Program unless at least 75 percent of the person or legal entity's average AGI is derived from farming, ranching, or forestry-related activities. A person's or legal entity's average AGI for each of the program years 2018, 2019 or 2020, is determined by using the average of the adjusted gross incomes for the 3 taxable years preceding the most immediately preceding taxable year. If the person's or legal entity's average AGI is below $900,000 or at least 75 percent of the person or legal entity's average AGI is derived from farming, ranching, or forestry-related activities, the person or legal entity, is eligible to receive payments under this subpart.

§ 760.1810 Time and method of application.

(a) A completed FSA–898, Quality Loss Adjustment (QLA) Program Application, must be submitted in person, by mail, email, or facsimile to any FSA county office by the close of business on March 5, 2020.

(b) An application submitted in accordance with paragraph (a) of this section is not considered valid and complete for issuance of payment under this subpart unless FSA determines all the applicable eligibility provisions have been satisfied and the producer has submitted all of following by March 19, 2020:

(1) Documentation required by § 760.1811;

(2) FSA–578, Report of Acreage, for all acreage for any crop for which payments under this subpart are requested;

(3) FSA–895, Crop Insurance and/or NAP Coverage Agreement; and

(4) For forage crops, FSA–899, Historical Nutritional Value Weighted Average Worksheet, if verifiable documentation of historical nutrient factors is available.

(c) In addition to the forms listed in paragraph (b) of this section, applicants must also submit all the following eligibility forms within 60 days from the date of signing the QLA Program application if not already on file with FSA:

(1) AD–1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation Certification;

(2) CCC–902 Automated, Farm Operating Plan for Payment Eligibility 2009 and Subsequent Program Years;

(3) CCC–941 Average Adjusted Gross Income (AGI) Certification and Consent to Disclosure of Tax Information; and

(4) CCC–942 Certification of Income from Farming, Ranching and Forestry Operations, if applicable.

(d) Failure to submit all required forms by the applicable deadlines in paragraphs (b) and (c) of this section may result in no payment or a reduced payment.

(e) Application approval and payment by FSA does not relieve a participant from having to submit any form required, but not filed, according to this section.

(f) Once signed by a producer, the application is considered to contain information and certifications of and pertaining to the producer regardless of who entered the information on the application.

(g) The producer applying for payment under this subpart certifies the accuracy and truthfulness of the information provided in the application as well as any documentation filed with or in support of the application. All information is subject to verification or spot check by FSA at any time, either before or after payment is issued. Refusal to allow FSA or any agency of the USDA to verify any information provided will result in the participant's forfeiting eligibility for payment under this subpart. FSA may at any time, including before, during, or after processing and paying an application, require the producer to submit any additional information necessary to implement or determine any eligibility

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provision of this subpart. Furnishing information specified in this subpart is voluntary; however, FSA may choose not to act on the application or approve payment if the required information is not provided. Providing a false certification will result in ineligibility and can also be punishable by imprisonment, fines, and other penalties.

§ 760.1811 Required documentation and verification.

(a) If requested by FSA, an applicant must provide documentation that establishes the applicant's ownership share and value at risk in the crop.

(b) The applicant must provide acceptable documentation that is dated and contains all information required to substantiate the applicant's certification to the satisfaction of the FSA county committee. Verifiable documentation is required to substantiate the total dollar value loss and associated affected production, grading factors, and nutritional factors. FSA may verify the records with records on file at the warehouse, gin, or other entity that received or may have received the reported production. Reliable production records are required to substantiate the reported amount of affected production for applications not based on the total dollar value loss.

(c) To be considered acceptable, verifiable documentation for grain crops that were sold may come from any time between harvest and sale of the affected production, unless the FSA county committee determines the record is not representative of the condition within 30 days of harvest. For all other crops, the verifiable documentation must come from tests or analysis completed within 30 days of harvest, unless the FSA county committee determines that the record is representative of the condition of the affected production at time of harvest. Examples of acceptable records for purposes of this paragraph (c) include:

(1) Warehouse grading sheets;

(2) Settlement sheets;

(3) Sales receipts showing grade and price or disposition to secondary market due to quality; and

(4) Laboratory test results.

(d) For forage crops, producers must submit verifiable documentation showing the nutrient factors for the affected production. Producers must also submit verifiable documentation of the historical nutrient factors for the 3 preceding crop years if available. The nutrient factors that must be documented for a crop will determined by the FSA county committee based on the standard practice for the crop in that county.

(e) For all crops other than forage crops, producers must submit verifiable documentation of the total dollar value loss due to quality, if available, and verifiable documentation of grading factors due to quality.

(f) The participant is responsible for:

(1) Retaining, providing, and summarizing, at time of application and whenever required by FSA, the best available verifiable production records for the crop;

(2) Providing the information in a manner that can be easily understood by the FSA county committee; and

(3) Providing supporting documentation about the disaster event if the FSA county committee has reason to question the disaster event.

(e) Participants must provide all records for any production of a crop that is grown with an arrangement, agreement, or contract for guaranteed payment.

(f) Participants are required to retain documentation in support of their application for 3 years after the date of approval.

(g) Participants receiving QLA Program payments or any other person who furnishes such information to USDA must permit authorized representatives of USDA or the Government Accountability Office, during regular business hours, to enter the agricultural operation and to inspect, examine, and make copies of books, records, or other items for the purpose of confirming the accuracy of the information provided by the participant.

§ 760.1812 Payment calculation.

(a) Payments will be calculated separately for crops based on the crop type, intended use, certified organic or conventional status, county, and crop year.

(b) For forage crops with verifiable documentation of nutrient factors for the affected production and for the 3 preceding crop years, the payment will be equal to the producer's total affected production multiplied by the producer's verifiable percentage of loss, multiplied by the average market price, multiplied by 70 percent.

(c) For forage crops with verifiable documentation of nutrient factors for the affected production but not for the 3 preceding crop years, the payment will be equal to the producer's total affected production multiplied by the county average percentage of loss in paragraph (f) of this section, multiplied by the average market price, multiplied by 70 percent, multiplied by 50 percent.

(d) For crops other than forage with verifiable documentation of the total dollar value loss due to quality, the payment will be equal to the producer's total dollar value loss on the affected production, multiplied by 70 percent.

(e) For crops other than forage without verifiable documentation of the total dollar value loss but with verifiable documentation of grading factors, the payment will be equal to the producer's affected production multiplied by the county average loss per unit of measure in paragraph (g) of this section, multiplied by 70 percent, multiplied by 50 percent.

(f) The county average percentage of loss is the average percentage of loss from producers eligible for payment under paragraph (b) of this section if at least 5 producers in a county are eligible for payment for a crop under paragraph (b) of this section. If less than 5 producers in a county are eligible for payment for a crop under paragraph (b) of this section, the Deputy Administrator will:

(1) Determine a county average percentage of loss based on the best available data, including, but not limited to, evidence of losses in contiguous counties; or

(2) If a county average percentage of loss cannot be determined due to insufficient data, not issue payments to applicants under paragraph (c) of this section.

(g) The county average loss per unit of measure is based on the weighted average sales price from producers eligible for payment under paragraph (d) of this section if at least 5 producers in a county are eligible for payment for a crop under paragraph (d) of this section. If less than 5 producers are eligible for payment in a county under paragraph (d) of this section, the Deputy Administrator will:

(1) Determine a county average loss per unit of measure based on the best available data, including, but not limited to, evidence of losses in contiguous counties; or

(2) If a county average loss per unit of measure cannot be determined due to insufficient data, not issue payments to applicants under paragraph (e) of this section.

§ 760.1813 Availability of funds and timing of payments.

(a) Payments will be issued after the application period has ended and all applications have been reviewed by FSA.

(b) In the event that, within the limits of the funding made available by the Secretary, approval of eligible applications would result in payments

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in excess of the amount available, FSA will prorate payments by a national factor to reduce the payments to an amount that is less than available funds as determined by the Secretary.

(c) Applications and claims that are unpaid or prorated for any reason will not be carried forward for payment under other funds for later years or otherwise, but will be considered, as to any unpaid amount, void and nonpayable.

§ 760.1814 Requirement to purchase crop insurance or NAP coverage.

(a) For the first 2 consecutive crop years for which crop insurance or NAP coverage is available after the enrollment period for the QLA Program ends, a participant who receives payment under this subpart for a crop loss in a county must obtain:

(1) For an insurable crop, crop insurance with at least a 60 percent coverage level for that crop in that county; or

(2) For a NAP-eligible crop, NAP coverage with a coverage level of 60 percent.

(b) Participants who exceed the average adjusted gross income limitation for NAP payment eligibility [1] for the applicable crop year may meet the purchase requirement specified in paragraph (a)(2) of this section by purchasing Whole-Farm Revenue Protection crop insurance coverage, if eligible, or paying the NAP service fee and premium even though the participant will not be eligible to receive a NAP payment due to the average adjusted gross income limit.

(c) The final crop year to purchase crop insurance or NAP coverage to meet the requirements of paragraph (a) of this section is the 2023 crop year.

(d) A participant who obtained crop insurance or NAP coverage for the crop in accordance with the requirements for WHIP+ in § 760.1517 is considered to have met the requirement to purchase crop insurance or NAP coverage for the QLA Program.

(e) If a producer fails to obtain crop insurance or NAP coverage as required in this section, the producer must reimburse FSA for the full amount of QLA Program payment plus interest. A producer will only be considered to have obtained NAP coverage for the purposes of this section if the participant submitted a NAP application for coverage and paid the requisite NAP service fee and any applicable premium by the applicable deadline and completed all program requirements required under the coverage agreement, including filing an acreage report.

Richard Fordyce,

Administrator, Farm Service Agency.

[FR Doc. 2020–28914 Filed 1–5–21; 8:45 am]

BILLING CODE 3410–05–P

[1] See §§ 1400.500(a) and 1400.1(a)(4) of this title.

DEPARTMENT OF ENERGY

10 CFR Part 1061

RIN 1990–AA50

Procedures for the Issuance of Guidance Documents

AGENCY: Office of the General Counsel, Department of Energy.

ACTION: Final rule.

SUMMARY: The U.S. Department of Energy (DOE) publishes this final rule to establish procedures for the issuance of DOE guidance documents in accordance with Executive Order 13891. In this final rule, DOE establishes internal agency requirements for the contents of guidance documents, and procedures for providing notice of, and soliciting public comment on, certain guidance documents. This final rule also establishes procedures for the public to petition DOE to modify or withdraw guidance documents.

DATES: The effective date of this rule is February 5, 2021.

ADDRESSES: The docket for this rulemaking, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *https://www.regulations.gov*. All documents in the docket are listed in the *https://www.regulations.gov* index. However, not all documents listed in the index, such as those containing information that is exempt from public disclosure by law, may be publicly available. A link to the docket web page can be found at *https://www.regulations.gov/document?D=DOE-HQ-2020-0033-0001*. The docket web page explains how to access all documents, including public comments, in the docket.

FOR FURTHER INFORMATION CONTACT: Mr. Matthew Ring, U.S. Department of Energy, Office of the General Counsel, Forrestal Building, GC–33, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–2555, Email: *Guidance@hq.doe.gov*.

SUPPLEMENTARY INFORMATION:

I. Summary of Final Rule

In this final rule, DOE incorporates into the Code of Federal Regulations a new 10 CFR part 1061, which implements the requirements of Executive Order 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents.'' (84 FR 55235 (Oct. 15, 2019)) Among other things, Executive Order 13891 requires agencies to provide more transparency for their guidance documents by creating a searchable online database for current guidance documents,[1] and by establishing procedures to allow the public to comment on significant guidance documents and to petition the agency to withdraw or modify guidance documents.[2] Moreover, the Executive Order requires agencies to clearly state in their guidance documents that such guidance does not have the force and effect of law and is not legally binding, except as authorized by law or as incorporated into a contract. (84 FR 55235, 55237)

This final rule applies to all DOE guidance documents, as defined by Executive Order 13891, including the exceptions listed in section 2 of the Executive Order. This final rule also lists specific types of documents and communications that fall within the broader exceptions listed in the Executive Order (*e.g.,* speeches and presentations given by DOE officials, legal positions taken in litigation or enforcement actions). (See also OMB M–20–02, Guidance Implementing Executive Order 13891, Titled ''Promoting the Rule of Law Through Improved Agency Guidance Documents'' (Oct. 31, 2019), available at *https://www.whitehouse.gov/wp-content/uploads/2019/10/M-20-02-Guidance-Memo.pdf*). This final rule also adopts the same definition of ''significant guidance document'' as section 2 of Executive Order 13891.

In accordance with Executive Order 13891, this final rule requires that all DOE guidance documents clearly state that they do not have the force and effect of law and are not legally binding on the public, and that they are only intended to provide clarity to the public

[1] DOE's online database may be found at *energy.gov/guidance*.

[2] Executive Order 13891 defines ''significant guidance document'' as ''a guidance document that may reasonably be anticipated to: (i) Lead to an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (ii) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (iii) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (iv) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles of Executive Order 12866.'' (84 FR 55235, 55236)

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An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

Elizabeth K. Appel,

Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2021–00317 Filed 1–8–21; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–OIA–31249; PIN00IO14.XI0000]

U.S. Nominations to the World Heritage List; 15-Day Notice of Opportunity for Public Comment

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: This notice requests public comment on the next potential U.S. nominations from the U.S. World Heritage Tentative List (''Tentative List'') to the United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage List. The public may also make suggestions for future additions to the Tentative List. This notice complies with applicable World Heritage Program regulations.

DATES: Comments will be accepted on or before January 26, 2021.

ADDRESSES: You may submit comments by either of the following methods:

- *Mail to:* Jonathan Putnam, Office of International Affairs, National Park Service, 1849 C Street NW, Washington, DC 20240.
- *Email to: jonathan_putnam@nps.gov*. Phone: (202) 354–1809.

Comments will not be accepted in any way other than those specified above.

Information on the U.S. World Heritage program can be found at: *https://www.nps.gov/subjects/internationalcooperation/worldheritage.htm*.

To request a paper copy of the U.S Tentative List, please contact April Brooks, Office of International Affairs, National Park Service, 1849 C Street NW, Room 2415, Washington, DC 20240 (202) 354–1808, or Email: *april_brooks@nps.gov*.

FOR FURTHER INFORMATION CONTACT: Jonathan Putnam, (202) 354–1809.

For the World Heritage nomination format, see the World Heritage Centre website at: *http://whc.unesco.org/en/nominations*.

SUPPLEMENTARY INFORMATION:

Background

The World Heritage List is an international list of cultural and natural properties nominated by the signatories to the World Heritage Convention (1972), an international treaty for the preservation of natural and cultural heritage sites of global significance. U.S. participation and the roles of the Department of the Interior and the National Park Service are authorized by Title IV of the Historic Preservation Act Amendments of 1980 and conducted in accordance with 36 CFR part 73—World Heritage Convention. The National Park Service serves as the principal technical agency for the U.S. Government to the Convention.

A Tentative List is a national list of natural and cultural properties appearing to meet the World Heritage Committee eligibility criteria for nomination to the World Heritage List. It is a list of candidate sites which a country may consider for nomination within a given time period, but does not guarantee future nomination. The World Heritage Committee's *Operational Guidelines* ask participating nations to provide Tentative Lists, which aid in evaluating properties for the World Heritage List on a comparative international basis and help the Committee to schedule its work over the long term. A country cannot nominate a property unless it has been on its Tentative List for a minimum of a year. Countries also are limited at this time to nominating no more than one site in any given year.

Neither inclusion in the Tentative List nor inscription as a World Heritage Site imposes legal restrictions on owners or neighbors of sites, nor does it give the United Nations any management authority or ownership rights in U.S. World Heritage Sites, which continue to be subject to U.S. laws.

Current U.S. World Heritage Tentative List

The current U.S. World Heritage Tentative List includes the following properties:

Cultural Sites

Civil Rights Movement Sites, Alabama [other properties would be added for a complete nomination]

—Dexter Avenue King Memorial Baptist Church, Montgomery
—Bethel Baptist Church, Birmingham
—16th Street Baptist Church, Birmingham

Dayton Aviation Sites, Ohio

—Dayton Aviation Heritage National Historical Park

Hopewell Ceremonial Earthworks, Ohio

—Fort Ancient State Memorial, Warren County
—Hopewell Culture National Historical Park, near Chillicothe
—Newark Earthworks State Historic Site, Newark and Heath

Jefferson (Thomas) Buildings, Virginia (Proposed Jointly as an Extension to the World Heritage Listing of Monticello and the University of Virginia Historic District)

—Poplar Forest, Bedford County
—Virginia State Capitol, Richmond

Mount Vernon, Virginia

Serpent Mound, Ohio

Ellis Island, New Jersey and New York

Chicago Early Skyscrapers, Illinois, including: [Other Properties May Be Added in the Course of Developing a Nomination]

—Rookery
—Auditorium Building
—Monadnock Building
—Ludington Building
—Marquette Building
—Old Colony Building
—Schlesinger & Mayer (Carson, Pirie Scott) Department Store
—Second Leiter Building
—Fisher Building

Central Park, New York

Brooklyn Bridge, New York

Moravian Bethlehem District, Pennsylvania

Natural Sites

National Marine Sanctuary of American Samoa (Formerly Fagatele Bay National Marine Sanctuary, American Samoa)

Okefenokee National Wildlife Refuge, Georgia

Petrified Forest National Park, Arizona

White Sands National Monument, New Mexico

Marianas Trench National Monument, U.S. Territory, Commonwealth of the Northern Mariana Islands, Guam

Central California Current, California, Including

—Cordell Bank National Marine Sanctuary
—Monterey Bay National Marine Sanctuary
—Greater Farallones National Marine Sanctuary
—Farallon Islands National Wildlife Refuge

AMERICAN OVERSIGHT

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—Point Reyes National Seashore
—Golden Gate National Recreation Area

Big Bend National Park, Texas

Pacific Remote Islands National Monument, U.S. Territorial Waters

Notes: (1) A nomination for the Hopewell Ceremonial Earthworks was authorized for preparation in May 2018 by the Department of the Interior and is now under development. (2) The Department has requested and is now awaiting advice from the International Council on Monuments and Sites (ICOMOS) on adding other properties to the proposal for the Civil Rights Movement Sites and its overall justification. (3) The government of the German state of Saxony is proposing an extension to the World Heritage listing of Christiansfeld, a Moravian Church Settlement in Denmark, that would include Herrnhut in Germany, the Moravian Bethlehem District in Bethlehem, Pennsylvania, and potentially other historic Moravian settlements in other countries.

Request for Public Comments

Comments on whether to authorize the preparation of a World Heritage nomination for any of the properties on the Tentative List should address the readiness and ability of the property owner(s) to prepare a satisfactory nomination document. Suggestions for additions to the Tentative List not previously submitted must address: (i) How the property(ies) would meet the World Heritage nomination criteria, requirements for authenticity, integrity, legal protection and management. Information on these criteria and requirements can be found on the website noted in the **FOR FURTHER INFORMATION CONTACT** section of this notice; and (ii) The U.S. legal prerequisites that include the agreement of all property owners to the nomination of their property, an official determination that the property is nationally significant (such as by designation as a National Historic or National Natural Landmark), and effective legal protection. All previous suggestions for the Tentative List made during previous comment periods or otherwise submitted since 2008, have been retained and considered and should not be resubmitted at this time.

Selection and Nomination

All public comments will be summarized and provided to Department of the Interior officials, who will obtain the advice of the Federal Interagency Panel for World Heritage before making any selection of properties for authorization to prepare a World Heritage nomination. The selection may include relevant factors, such as the likelihood of being able to complete a satisfactory nomination, and the fact that the United States is currently prohibited by law from providing any funding to UNESCO, including UNESCO and World Heritage member dues. Once authorized, the property owners may prepare a draft nomination.

The Department does not have a fixed schedule for completing or submitting World Heritage nominations. No more than one nomination from any country may be submitted per year, per the UNESCO World Heritage *Operational Guidelines.* Completed nominations, if approved by the Department for submission, may be submitted to the UNESCO World Heritage Centre by February 1 of any year.

Public Availability of Comments

All comments will be a matter of public record. Before including an address, phone number, email address, or other personal identifying information in a comment, members of the public should be aware that the entire comment—including personal identifying information—may be made public at any time. While commenters can request that personal identifying information be withheld from public review, it may not be possible to comply with this request.

Authority: 54 U.S.C. 307101; 36 CFR part 73.

George Wallace,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2021–00310 Filed 1–8–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#-31331; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before December 25, 2020, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by January 26, 2021.

ADDRESSES: Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line ''Public Comment on property or proposed district name, (County) State.'' If you have no access to email you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before December 25, 2020. Pursuant to Section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State or Tribal Historic Preservation Officers:

CALIFORNIA

Orange County

Johnson, Hugh Edgar, House, 444 W. Brookdale Pl., Fullerton, SG100006089

FLORIDA

Monroe County

Matecumbe Methodist Church Cemetery, 81801 Overseas Hwy., Islamorada, SG100006117

Pinellas County

House at 827 Mandalay Avenue, 827 Mandalay Ave., Clearwater, SG100006118

Sumter County

Wild Cow Prairie Cemetery, 5822 Cty. Rd. 673, Bushnell vicinity, SG100006119

Volusia County

Wright, James W., Building, 258 West Voorhis Ave., DeLand, SG100006120

Walton County

Herman Lodge No. 108 Free & Accepted Masons of Florida, 314 Madison St., Freeport, SG100006121

ILLINOIS

Cook County

Irving, James B., House, 2771 Crawford Ave., Evanston, SG100006102

AMERICAN OVERSIGHT

State of New Mexico COVID-19 Vaccine Allocation Plan
Phases 1A, 1B, 1C, and 2

Updated January 8, 2021

I. BACKGROUND

New Mexico has prioritized vaccine allocation consistent with the Centers for Disease Control and Prevention (CDC) phases,[1] adapting those phases where necessary to protect New Mexican residents as effectively as possible. The state's vaccination distribution plan aims to a) ensure the continuing functioning of the health care system and essential services in the community and b) protect people at increased risk for severe COVID-19-related illness.

During Phase 1 of COVID-19 vaccine distribution in the United States, supplies will be limited. The federal government is distributing COVID-19 vaccine in weekly allotments to states over the next 3-6 months. Those allotments are insufficient to vaccinate all New Mexicans. In Phase 2, every New Mexico resident who wishes to be vaccinated will have a chance to receive the vaccine.

In coordination with key stakeholders, NMDOH is creating a broad vaccine administration network to ensure sustainable and equitable vaccine access across New Mexico. This network includes private healthcare providers, pharmacies, clinics, hospitals, community service organizations, and mass vaccination events.

The creation of the current protocol has also included input from a team that is diverse by race, ethnicity, language, gender, professional training, clinical settings, life experiences and informed by health equity and racial justice principles as well as the Framework on Equitable Distribution of COVID Vaccine.[2] We recognize that vaccination success will depend on engaging local community leaders and groups as primary carriers of information and building trust to overcome lack of media access, economic isolation and bureaucratic barriers.

As recommended and defined by the CDC,[3] the first doses of COVID-19 vaccines should be offered to healthcare personnel and residents of long-term care facilities (Phase 1A). Subsequently, vaccine should be offered to those categorized in sequential phases (1B and 1C). As more vaccine becomes available, vaccination across multiple phases can occur simultaneously.[4]

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[1] CDC recommendations are based on input from the Advisory Committee on Immunization Practices (ACIP). This federal advisory committee is comprised of medical and public health experts who develop recommendations on the use of vaccines in the United States.

[2] National Academies of Sciences, Engineering, and Medicine. 2020. *Framework for equitable allocation of COVID-19 vaccine*. Washington, DC: The National Academies Press. https://doi.org/10.17226/25917.

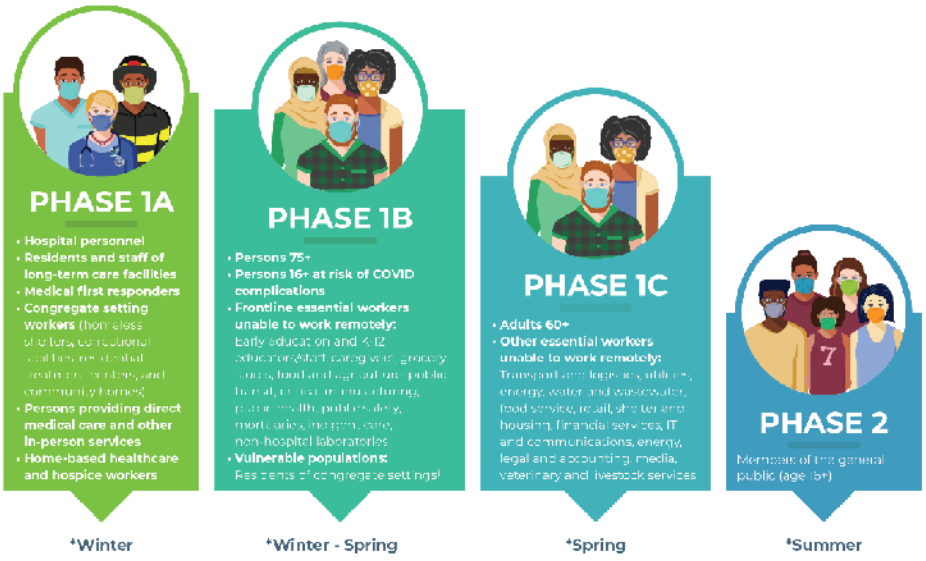
[3] When Vaccine is Limited, Who Gets Vaccinated First? | CDC

[4] While no data currently exists addressing the safety and efficacy of Pfizer's or Moderna's COVID-19 vaccines in pregnant women, the CDC has recommended that pregnant women may be offered the vaccine within the phase they fit in, following consultation with their medical provider. Additionally, none of the vaccines currently approved for Emergency Use Authorization have been tested on or approved for use in children younger than 16. (Pfizer can be administered to

AMERICAN OVERSIGHT

Vaccine availability will initially be limited and therefore must be distributed in a phased approach. These phases are as follows.

> ***Phase 1A**: All persons serving in health care settings who have direct or indirect exposure to patients or infectious materials and are unable to work from home, as well as residents of long-term care facilities. Also includes workers in congregate settings.*
>
> ***Phase 1B:** All individuals 75 years of age and older, individuals 16 or older with underlying medical conditions that place them at greater risk from COVID-19, frontline essential workers[5] who cannot work remotely, and vulnerable populations.*
>
> ***Phase 1C:** Includes persons 60 years of age or older, essential workers[6] who cannot work remotely.*
>
> ***Phase 2:** All persons 16 years of age or older.*



** Estimated time frames; dependent on DOH receiving vaccine*
[1]Vulnerable populations at risk of COVID complications can be vaccinated sooner

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persons 16 years of age or older; Moderna can be administered to persons 18 years of age or older.) *These guidelines may change as more information on vaccine effectiveness and additional vaccines become available.*

[5] Frontline essential workers are employed in sectors essential to the functioning of society and are at substantially higher risk of exposure to SARS-CoV-2.

[6] Essential workers are employed in sectors essential to the functioning of society.

AMERICAN OVERSIGHT

II. PHASED ALLOCATION OF COVID-19 VACCINES

PHASE 1A: CONSISTS OF HEALTHCARE PERSONNEL, STAFF AND RESIDENTS OF LONG-TERM CARE FACILITIES, STAFF OF OTHER CONGREGATE CARE FACILITIES, AND OTHER PERSONNEL WITH DIRECT EXPOSURE TO INFECTIOUS PEOPLE OR MATERIALS

In Phase 1A, workers who provide healthcare and other direct ***in-person*** services to patients, persons with disabilities, and persons living in congregate care settings who are at risk of exposure to the virus or who handle infectious materials will be vaccinated. A non-exhaustive list of individuals are eligible for vaccine in Phase 1A include the following. (For a complete list of individuals falling within Phase 1A, see Appendix A.)

- All hospital personnel
- Residents of nursing homes and long-term care facilities
- Medical first responders
- Congregate setting healthcare workers and those workers in congregate settings who may have close contact with infected persons
- Persons providing direct medical care and other in person services in the community
- Home-based healthcare and hospice workers

PHASE 1B: PERSONS 75 YEARS OR OLDER, 16 YEARS OR OLDER WITH AT LEAST ONE CHRONIC CONDITION, FRONTLINE ESSENTIAL WORKERS IN CRITICAL INFRASTRUCTURE WORKPLACES, VULNERABLE POPULATIONS

Phase 1B will be administered to groups in the following sequence:

- Persons 75 years or older
- Persons 16 years or older with at least one of chronic medical conditions identified below
- Frontline essential workers as identified below
- Vulnerable populations

A. Persons 75 years of age or older: This group faces the highest risk of hospitalization, morbidity and mortality from COVID-19. Vaccine scheduling appointments will be made available to this group as soon as Phase 1B begins; it may take several weeks for all eligible seniors to receive a vaccine.

B. *Persons 16 years of age or older with at least one of the following conditions:*

Conditions with increased risk of severe illness:[7]

- Cancer
- Chronic kidney disease
- COPD (chronic obstructive pulmonary disease), pulmonary fibrosis, cystic fibrosis
- Down syndrome
- Heart conditions (heart failure, hypertension, coronary artery disease or cardiomyopathies)
- Immunocompromised state from solid organ transplant
- Obesity (BMI>=40)
- Pregnancy
- Sickle cell disease
- Type 2 Diabetes

Conditions that might involve increased risk:

- Asthma
- Cerebrovascular disease (previous stroke, TIA)
- Hypertension or high blood pressure
- Immunocompromised state from blood or bone marrow transplant, immune deficiencies, HIV, use of

[7] CDC. People with certain medical conditions. https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html

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corticosteroids or use of other immune-weakening medicines
- Neurologic conditions such as dementia
- Liver disease
- Overweight (BMI >25 but <30)
- Pulmonary fibrosis (having damaged or scarred lung tissues)
- Thalassemia
- Type 1 diabetes

C. Frontline essential workers*:* Workers in essential and other industries that are part of America's critical infrastructure.[8] Many of these workers operate in roles that require significant person-to-person interactions and place them at greater risk of COVID-19 infection. Vaccine access is critical not only to protect these workers but also to maintain the essential services they provide in New Mexico.

Because the number of people in Phase 1B is much larger than available supply, not all frontline essential workers can be vaccinated simultaneously. Frontline essential workers will be vaccinated in the following order.

- Family home caregivers, child care workers, (paid or unpaid) of persons who care for those with high-risk conditions
- Early education and K-12 educators/staff and other personnel in educational institutions needed on-site to support in-person learning
- Grocery store workers
    - Personnel at grocery stores, supermarkets, food banks, farmers' markets and vendors who sell food, convenience stores, and other businesses that generate the majority of their revenue from the sale of canned food, dry goods, fresh fruits and vegetables, fresh meats, fish, and poultry, and any other household consumer products, as well as pet food, feed, and other animal supplies
- Food and agriculture workers, including farms, ranches and other food cultivation operations
- Food processing or packaging operations
- Public transit workers
- Critical manufacturing workers, including:
    - Medical supplies and equipment, manufacturing agents, chemicals, fertilizer, pharmaceuticals, sanitary products, household paper products, microelectronics/semi-conductors, primary metals, electrical equipment, appliances and components, and transportation equipment
- Adult and child protective services workers
- Public health, environmental, occupational health and other workers **who perform in-person** inspections to promote health and safety of licensed and unlicensed facilities and operations
- Mortuary, cremation and cemetery service workers
- Court personnel; elected and appointed officials in government **who are unable to work remotely and/or telework**
- Personnel who provide in-person services necessary to maintain the safety and sanitation of residences or essential businesses including security services, towing services, custodial services, plumbers, electricians, and other skilled trades
- Hardware and construction stores
- Laundromats and dry cleaner services
- Workers not covered in Phase 1A in research centers and laboratories **who are unable to work remotely and/or telework**

[8] https://www.cisa.gov/sites/default/files/publications/Version_3.0_CISA_Guidance_on_Essential_Critical_Infrastructure_Workers_1.pdf

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NM-OTERO-21-0275-A-000682

- Workers and volunteers who provide in-person services to indigent or needy populations
- Laboratories and defense and national security-related operations supporting the United States government, or contractors to the United States government or any federal entity **who are unable to work remotely and/or telework**
- Emergency Operations Center (EOC) personnel; PPE and vaccine warehouse workers

D. Populations in congregate settings: Persons in congregate settings who have not been vaccinated as part of other phases will be identified as a vulnerable population. Populations in congregate settings include those persons unable to self-isolate or stay six feet apart from each other, which can result in increased spread of COVID-19 within and outside congregate settings. Congregate settings include homeless shelters, residential treatment centers, community homes, corrections or detention facilities, and juvenile justice facilities.

PHASE 1C: AGE 60 YEARS OR OLDER, OTHER ESSENTIAL WORKERS

Below is the sequence for Phase 1C vaccine distribution.

A. Persons 60 years or older

B. Essential workers not included in Phase 1B and who are unable to work remotely and/or telework:
Workers falling within this category will be vaccinated in the following order.

- Businesses that store, transport or deliver goods or services directly to residences, retailers, government institutions, or essential businesses
    - Automobile repair facilities, bike repair facilities, and retailers who generate the majority of their revenue from the sale of automobile or bike repair products
    - Airlines and airport operations
    - Taxis and other private transportation providers
    - Transportation network companies
- Utilities, including contractors, suppliers, and supportive operations, engaged in power generation, fuel supply and transmission, water and wastewater supply
- Food service personnel not included in Phase 1B, including restaurant and quick service food operations and food prep centers
- Consumer goods, retail
- Finance/banking staff, including banks, credit unions, insurance providers, payroll services, brokerage services and investment management firms
- Information technology and communications personnel
- Energy industry personnel
- Legal and accounting personnel
- Media personnel
- Veterinary and livestock services, animal shelters and facilities providing pet adoption, grooming, daycare or boarding services

PHASE 2: ALL PERSONS 16 YEARS OF AGE OR OLDER NOT RECOMMENDED FOR VACCINATION IN AN EARLIER PHASE

Note: Only the Pfizer vaccine is authorized for persons 16 or 17 years of age at this time.

Note: Within a given phase, invitations for New Mexicans to schedule vaccine appointments will be made at random.

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VERIFICATION

Verification of Employment: Workers in each category will be required to verify their employment through appropriate means. Additionally, all workers must provide a sworn attestation that the information they provide is true and accurate.

Verification of Qualifying Conditions: Individuals should be prepared to verify medically qualifying conditions. To do so, individuals may provide a note from a provider, emergency department or hospital discharge summary, prescription bottle, prescription, or other form of validation.

AMERICAN OVERSIGHT

Appendix A

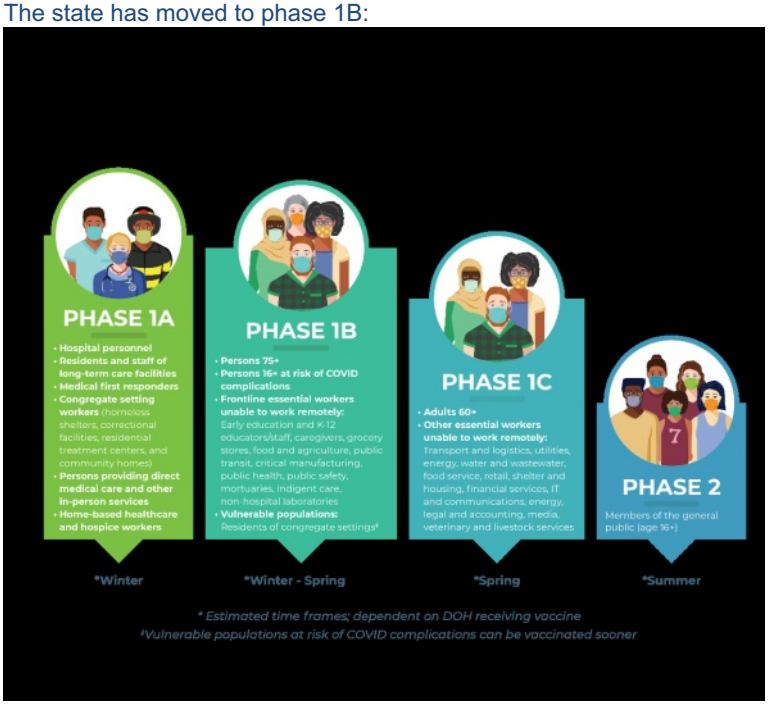
Occupation Category: Healthcare Worker
All hospital personnel with direct patient care ● A wide array of medical house staff (i.e., interns, residents, fellows), nurses, nurses' aides, physical therapists, physicians, physicians' assistants, respiratory therapists, speech pathologists, students (medical, nursing, PT, RT), midwives, nutritionists, CRNAs, audiology, interpreters, blood donation workers, podiatrists, laboratorians, organ donation procurement workers ● Staff who provide cleaning, food and other services to support patients ● Emergency room staff ● Ancillary staff directly interacting with patients or infectious materials: laboratory personnel, phlebotomists, radiology technicians
Persons providing direct medical care or other in-person services in the following areas: ● Primary care, family practice, behavioral health, family planning, and other specialty practices ● Dialysis and infusion centers ● Inpatient or outpatient medical settings ● Public health offices ● Imaging centers ● Dental ● Optometry and ophthalmology ● Rehabilitation services, including physical therapy, occupational therapy, vocational rehabilitation and independent living ● Community health workers (CHWs) who provide in-person services
Residents and staff in nursing homes and other long-term care facilities
Pharmacists and pharmacy technicians who interact with patients
Home health and hospice workers including home health aides, caregivers, and companions
Workers with patients undergoing chemotherapy
Autopsy room staff, coroners, embalmers, and funeral home staff at risk of exposure to bodily fluids
COVID-19 testing site staff and those administering COVID-19 vaccine
Support service providers for persons with disabilities and persons providing in-person interpretation services
Occupation Category: First Responder
Medical first responders (EMS, fire department, and law enforcement personnel who provide emergency medical services and transportation) and hospital transport personnel
Occupation Category: Congregate Care
Persons working in congregate settings (including correctional facilities, juvenile justice facilities, homeless shelters, residential treatment centers, or community homes)

AMERICAN OVERSIGHT
NM-OTERO-21-0275-A-000685

From: Susan Mayes <smayes@nmcounties.org>
Sent: Tuesday, January 12, 2021 10:48 AM EST
To: Susan Mayes <smayes@nmcounties.org>
Subject: FW: Phase 1B Vaccine Activation Plan REVISED
Attachment(s): "2021.1.8 DOH Phase Guidance.pdf"

Hi all,
Please see the below message and the attached NM DOH Phase Guidance. This is a call for trusted voices in our counties to record a short PSA encouraging your communities to register for the vaccine. Please consider being the voice for your county. We are all in this together. Let's get the word out to help keep this virus at bay and start down the long road to go back to normal.

The state has moved to phase 1B:



Best,

Susan D. Mayes
505.820.8102 | Cell: 505.469.0042
NEW MEXICO COUNTIES 33 STRONG

From: Audrey Herrera-Castillo <audrey@momentumsantafe.com>

On Friday, January 8, 2021, the state of New Mexico moved into phase 1B distribution of the COVID-19 vaccine. Phase 1B include a***ll individuals 75 years of age and older, individuals 16 or older with underlying medical conditions that place them at greater risk from COVID-19, frontline essential workers who cannot work remotely, and vulnerable populations.***

The attached document has the most current information related to the distribution. Please share it with your members.

We are currently scheduling individuals to record a Trusted Voices PSA via a short Zoom session. We are searching for representation from rural and urban communities around the state. The nomination portal remains open, Step Up to the Mic. Also, individuals may schedule their session immediately by clicking on this link (https://momentumsantafe.as.me/TrustedVoices).

Please let me know if you have any questions.
Thank you!

Audrey,
Trusted Voices Manager

Audrey Herrera-Castillo
Momentum Santa Fe
505-670-0115
momentumsantafe.com

AMERICAN OVERSIGHT

State of New Mexico COVID-19 Vaccine Allocation Plan
Phases 1A, 1B, 1C, and 2

Updated January 8, 2021

I. BACKGROUND

New Mexico has prioritized vaccine allocation consistent with the Centers for Disease Control and Prevention (CDC) phases,[1] adapting those phases where necessary to protect New Mexican residents as effectively as possible. The state's vaccination distribution plan aims to a) ensure the continuing functioning of the health care system and essential services in the community and b) protect people at increased risk for severe COVID-19-related illness.

During Phase 1 of COVID-19 vaccine distribution in the United States, supplies will be limited. The federal government is distributing COVID-19 vaccine in weekly allotments to states over the next 3-6 months. Those allotments are insufficient to vaccinate all New Mexicans. In Phase 2, every New Mexico resident who wishes to be vaccinated will have a chance to receive the vaccine.

In coordination with key stakeholders, NMDOH is creating a broad vaccine administration network to ensure sustainable and equitable vaccine access across New Mexico. This network includes private healthcare providers, pharmacies, clinics, hospitals, community service organizations, and mass vaccination events.

The creation of the current protocol has also included input from a team that is diverse by race, ethnicity, language, gender, professional training, clinical settings, life experiences and informed by health equity and racial justice principles as well as the Framework on Equitable Distribution of COVID Vaccine.[2] We recognize that vaccination success will depend on engaging local community leaders and groups as primary carriers of information and building trust to overcome lack of media access, economic isolation and bureaucratic barriers.

As recommended and defined by the CDC,[3] the first doses of COVID-19 vaccines should be offered to healthcare personnel and residents of long-term care facilities (Phase 1A). Subsequently, vaccine should be offered to those categorized in sequential phases (1B and 1C). As more vaccine becomes available, vaccination across multiple phases can occur simultaneously.[4]

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[1] CDC recommendations are based on input from the Advisory Committee on Immunization Practices (ACIP). This federal advisory committee is comprised of medical and public health experts who develop recommendations on the use of vaccines in the United States.

[2] National Academies of Sciences, Engineering, and Medicine. 2020. *Framework for equitable allocation of COVID-19 vaccine*. Washington, DC: The National Academies Press. https://doi.org/10.17226/25917.

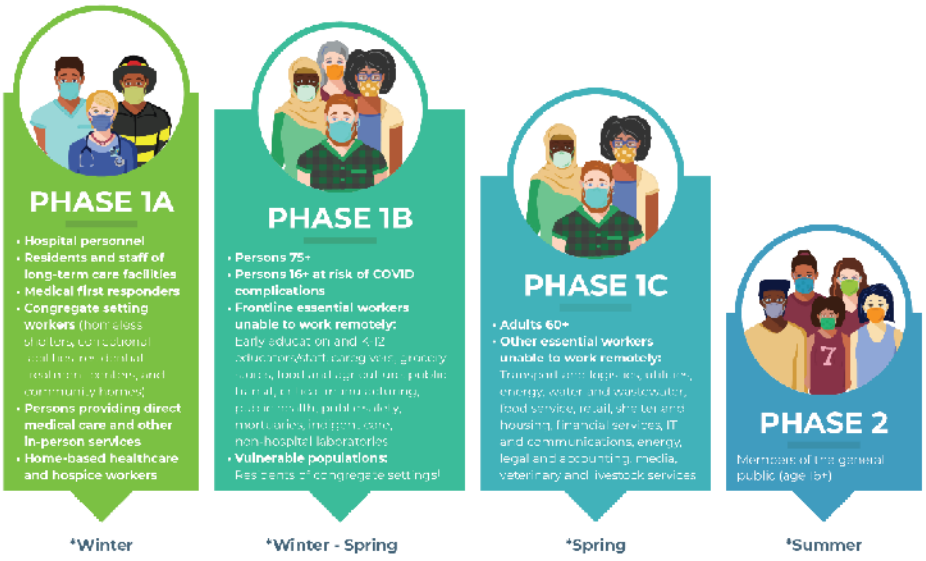
[3] When Vaccine is Limited, Who Gets Vaccinated First? | CDC

[4] While no data currently exists addressing the safety and efficacy of Pfizer's or Moderna's COVID-19 vaccines in pregnant women, the CDC has recommended that pregnant women may be offered the vaccine within the phase they fit in, following consultation with their medical provider. Additionally, none of the vaccines currently approved for Emergency Use Authorization have been tested on or approved for use in children younger than 16. (Pfizer can be administered to

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Vaccine availability will initially be limited and therefore must be distributed in a phased approach. These phases are as follows.

> ***<u>Phase 1A</u>: All persons serving in health care settings who have direct or indirect exposure to patients or infectious materials and are unable to work from home, as well as residents of long-term care facilities. Also includes workers in congregate settings.***
>
> ***<u>Phase 1B:</u> All individuals 75 years of age and older, individuals 16 or older with underlying medical conditions that place them at greater risk from COVID-19, frontline essential workers[5] who cannot work remotely, and vulnerable populations.***
>
> ***<u>Phase 1C:</u> Includes persons 60 years of age or older, essential workers[6] who cannot work remotely.***
>
> ***<u>Phase 2:</u> All persons 16 years of age or older.***



** Estimated time frames; dependent on DOH receiving vaccine*
[1]Vulnerable populations at risk of COVID complications can be vaccinated sooner

persons 16 years of age or older; Moderna can be administered to persons 18 years of age or older.) *These guidelines may change as more information on vaccine effectiveness and additional vaccines become available.*

[5] Frontline essential workers are employed in sectors essential to the functioning of society and are at substantially higher risk of exposure to SARS-CoV-2.

[6] Essential workers are employed in sectors essential to the functioning of society.

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II. PHASED ALLOCATION OF COVID-19 VACCINES

PHASE 1A: CONSISTS OF HEALTHCARE PERSONNEL, STAFF AND RESIDENTS OF LONG-TERM CARE FACILITIES, STAFF OF OTHER CONGREGATE CARE FACILITIES, AND OTHER PERSONNEL WITH DIRECT EXPOSURE TO INFECTIOUS PEOPLE OR MATERIALS

In Phase 1A, workers who provide healthcare and other direct ***in-person*** services to patients, persons with disabilities, and persons living in congregate care settings who are at risk of exposure to the virus or who handle infectious materials will be vaccinated. A non-exhaustive list of individuals are eligible for vaccine in Phase 1A include the following. (For a complete list of individuals falling within Phase 1A, see Appendix A.)

- All hospital personnel
- Residents of nursing homes and long-term care facilities
- Medical first responders
- Congregate setting healthcare workers and those workers in congregate settings who may have close contact with infected persons
- Persons providing direct medical care and other in person services in the community
- Home-based healthcare and hospice workers

PHASE 1B: PERSONS 75 YEARS OR OLDER, 16 YEARS OR OLDER WITH AT LEAST ONE CHRONIC CONDITION, FRONTLINE ESSENTIAL WORKERS IN CRITICAL INFRASTRUCTURE WORKPLACES, VULNERABLE POPULATIONS

Phase 1B will be administered to groups in the following sequence:

- Persons 75 years or older
- Persons 16 years or older with at least one of chronic medical conditions identified below
- Frontline essential workers as identified below
- Vulnerable populations

A. Persons 75 years of age or older: This group faces the highest risk of hospitalization, morbidity and mortality from COVID-19. Vaccine scheduling appointments will be made available to this group as soon as Phase 1B begins; it may take several weeks for all eligible seniors to receive a vaccine.

B. *Persons 16 years of age or older with at least one of the following conditions:*

Conditions with increased risk of severe illness:[7]

- Cancer
- Chronic kidney disease
- COPD (chronic obstructive pulmonary disease), pulmonary fibrosis, cystic fibrosis
- Down syndrome
- Heart conditions (heart failure, hypertension, coronary artery disease or cardiomyopathies)
- Immunocompromised state from solid organ transplant
- Obesity (BMI>=40)
- Pregnancy
- Sickle cell disease
- Type 2 Diabetes

Conditions that might involve increased risk:

- Asthma
- Cerebrovascular disease (previous stroke, TIA)
- Hypertension or high blood pressure
- Immunocompromised state from blood or bone marrow transplant, immune deficiencies, HIV, use of

[7] CDC. People with certain medical conditions. https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html

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corticosteroids or use of other immune-weakening medicines
- Neurologic conditions such as dementia
- Liver disease
- Overweight (BMI >25 but <30)
- Pulmonary fibrosis (having damaged or scarred lung tissues)
- Thalassemia
- Type 1 diabetes

C. Frontline essential workers*:* Workers in essential and other industries that are part of America's critical infrastructure.[8] Many of these workers operate in roles that require significant person-to-person interactions and place them at greater risk of COVID-19 infection. Vaccine access is critical not only to protect these workers but also to maintain the essential services they provide in New Mexico.

Because the number of people in Phase 1B is much larger than available supply, not all frontline essential workers can be vaccinated simultaneously. Frontline essential workers will be vaccinated in the following order.

- Family home caregivers, child care workers, (paid or unpaid) of persons who care for those with high-risk conditions
- Early education and K-12 educators/staff and other personnel in educational institutions needed on-site to support in-person learning
- Grocery store workers
    - Personnel at grocery stores, supermarkets, food banks, farmers' markets and vendors who sell food, convenience stores, and other businesses that generate the majority of their revenue from the sale of canned food, dry goods, fresh fruits and vegetables, fresh meats, fish, and poultry, and any other household consumer products, as well as pet food, feed, and other animal supplies
- Food and agriculture workers, including farms, ranches and other food cultivation operations
- Food processing or packaging operations
- Public transit workers
- Critical manufacturing workers, including:
    - Medical supplies and equipment, manufacturing agents, chemicals, fertilizer, pharmaceuticals, sanitary products, household paper products, microelectronics/semi-conductors, primary metals, electrical equipment, appliances and components, and transportation equipment
- Adult and child protective services workers
- Public health, environmental, occupational health and other workers **who perform in-person** inspections to promote health and safety of licensed and unlicensed facilities and operations
- Mortuary, cremation and cemetery service workers
- Court personnel; elected and appointed officials in government **who are unable to work remotely and/or telework**
- Personnel who provide in-person services necessary to maintain the safety and sanitation of residences or essential businesses including security services, towing services, custodial services, plumbers, electricians, and other skilled trades
- Hardware and construction stores
- Laundromats and dry cleaner services
- Workers not covered in Phase 1A in research centers and laboratories **who are unable to work remotely and/or telework**

[8] https://www.cisa.gov/sites/default/files/publications/Version_3.0_CISA_Guidance_on_Essential_Critical_Infrastructure_Workers_1.pdf

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- Workers and volunteers who provide in-person services to indigent or needy populations
- Laboratories and defense and national security-related operations supporting the United States government, or contractors to the United States government or any federal entity **who are unable to work remotely and/or telework**
- Emergency Operations Center (EOC) personnel; PPE and vaccine warehouse workers

D. Populations in congregate settings: Persons in congregate settings who have not been vaccinated as part of other phases will be identified as a vulnerable population. Populations in congregate settings include those persons unable to self-isolate or stay six feet apart from each other, which can result in increased spread of COVID-19 within and outside congregate settings. Congregate settings include homeless shelters, residential treatment centers, community homes, corrections or detention facilities, and juvenile justice facilities.

PHASE 1C: AGE 60 YEARS OR OLDER, OTHER ESSENTIAL WORKERS

Below is the sequence for Phase 1C vaccine distribution.

A. Persons 60 years or older

B. Essential workers not included in Phase 1B and who are unable to work remotely and/or telework:
Workers falling within this category will be vaccinated in the following order.

- Businesses that store, transport or deliver goods or services directly to residences, retailers, government institutions, or essential businesses
    - Automobile repair facilities, bike repair facilities, and retailers who generate the majority of their revenue from the sale of automobile or bike repair products
    - Airlines and airport operations
    - Taxis and other private transportation providers
    - Transportation network companies
- Utilities, including contractors, suppliers, and supportive operations, engaged in power generation, fuel supply and transmission, water and wastewater supply
- Food service personnel not included in Phase 1B, including restaurant and quick service food operations and food prep centers
- Consumer goods, retail
- Finance/banking staff, including banks, credit unions, insurance providers, payroll services, brokerage services and investment management firms
- Information technology and communications personnel
- Energy industry personnel
- Legal and accounting personnel
- Media personnel
- Veterinary and livestock services, animal shelters and facilities providing pet adoption, grooming, daycare or boarding services

PHASE 2: ALL PERSONS 16 YEARS OF AGE OR OLDER NOT RECOMMENDED FOR VACCINATION IN AN EARLIER PHASE

Note: Only the Pfizer vaccine is authorized for persons 16 or 17 years of age at this time.

Note: Within a given phase, invitations for New Mexicans to schedule vaccine appointments will be made at random.

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VERIFICATION

Verification of Employment: Workers in each category will be required to verify their employment through appropriate means. Additionally, all workers must provide a sworn attestation that the information they provide is true and accurate.

Verification of Qualifying Conditions: Individuals should be prepared to verify medically qualifying conditions. To do so, individuals may provide a note from a provider, emergency department or hospital discharge summary, prescription bottle, prescription, or other form of validation.

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Appendix A

Occupation Category: Healthcare Worker
All hospital personnel with direct patient care ● A wide array of medical house staff (i.e., interns, residents, fellows), nurses, nurses' aides, physical therapists, physicians, physicians' assistants, respiratory therapists, speech pathologists, students (medical, nursing, PT, RT), midwives, nutritionists, CRNAs, audiology, interpreters, blood donation workers, podiatrists, laboratorians, organ donation procurement workers ● Staff who provide cleaning, food and other services to support patients ● Emergency room staff ● Ancillary staff directly interacting with patients or infectious materials: laboratory personnel, phlebotomists, radiology technicians
Persons providing direct medical care or other in-person services in the following areas: ● Primary care, family practice, behavioral health, family planning, and other specialty practices ● Dialysis and infusion centers ● Inpatient or outpatient medical settings ● Public health offices ● Imaging centers ● Dental ● Optometry and ophthalmology ● Rehabilitation services, including physical therapy, occupational therapy, vocational rehabilitation and independent living ● Community health workers (CHWs) who provide in-person services
Residents and staff in nursing homes and other long-term care facilities
Pharmacists and pharmacy technicians who interact with patients
Home health and hospice workers including home health aides, caregivers, and companions
Workers with patients undergoing chemotherapy
Autopsy room staff, coroners, embalmers, and funeral home staff at risk of exposure to bodily fluids
COVID-19 testing site staff and those administering COVID-19 vaccine
Support service providers for persons with disabilities and persons providing in-person interpretation services
Occupation Category: First Responder
Medical first responders (EMS, fire department, and law enforcement personnel who provide emergency medical services and transportation) and hospital transport personnel
Occupation Category: Congregate Care
Persons working in congregate settings (including correctional facilities, juvenile justice facilities, homeless shelters, residential treatment centers, or community homes)

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State of New Mexico COVID-19 Vaccine Allocation Plan
Phases 1A, 1B, 1C, and 2

Updated January 8, 2021

I. BACKGROUND

New Mexico has prioritized vaccine allocation consistent with the Centers for Disease Control and Prevention (CDC) phases,[1] adapting those phases where necessary to protect New Mexican residents as effectively as possible. The state's vaccination distribution plan aims to a) ensure the continuing functioning of the health care system and essential services in the community and b) protect people at increased risk for severe COVID-19-related illness.

During Phase 1 of COVID-19 vaccine distribution in the United States, supplies will be limited. The federal government is distributing COVID-19 vaccine in weekly allotments to states over the next 3-6 months. Those allotments are insufficient to vaccinate all New Mexicans. In Phase 2, every New Mexico resident who wishes to be vaccinated will have a chance to receive the vaccine.

In coordination with key stakeholders, NMDOH is creating a broad vaccine administration network to ensure sustainable and equitable vaccine access across New Mexico. This network includes private healthcare providers, pharmacies, clinics, hospitals, community service organizations, and mass vaccination events.

The creation of the current protocol has also included input from a team that is diverse by race, ethnicity, language, gender, professional training, clinical settings, life experiences and informed by health equity and racial justice principles as well as the Framework on Equitable Distribution of COVID Vaccine.[2] We recognize that vaccination success will depend on engaging local community leaders and groups as primary carriers of information and building trust to overcome lack of media access, economic isolation and bureaucratic barriers.

As recommended and defined by the CDC,[3] the first doses of COVID-19 vaccines should be offered to healthcare personnel and residents of long-term care facilities (Phase 1A). Subsequently, vaccine should be offered to those categorized in sequential phases (1B and 1C). As more vaccine becomes available, vaccination across multiple phases can occur simultaneously.[4]

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[1] CDC recommendations are based on input from the Advisory Committee on Immunization Practices (ACIP). This federal advisory committee is comprised of medical and public health experts who develop recommendations on the use of vaccines in the United States.

[2] National Academies of Sciences, Engineering, and Medicine. 2020. *Framework for equitable allocation of COVID-19 vaccine*. Washington, DC: The National Academies Press. https://doi.org/10.17226/25917.

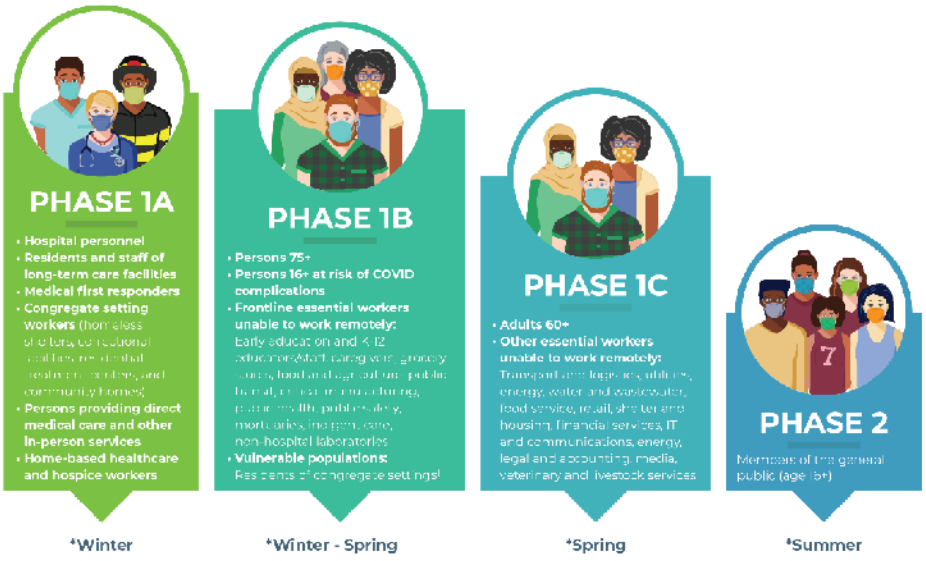
[3] When Vaccine is Limited, Who Gets Vaccinated First? | CDC

[4] While no data currently exists addressing the safety and efficacy of Pfizer's or Moderna's COVID-19 vaccines in pregnant women, the CDC has recommended that pregnant women may be offered the vaccine within the phase they fit in, following consultation with their medical provider. Additionally, none of the vaccines currently approved for Emergency Use Authorization have been tested on or approved for use in children younger than 16. (Pfizer can be administered to

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Vaccine availability will initially be limited and therefore must be distributed in a phased approach. These phases are as follows.

> ***Phase 1A**: All persons serving in health care settings who have direct or indirect exposure to patients or infectious materials and are unable to work from home, as well as residents of long-term care facilities. Also includes workers in congregate settings.*
>
> ***Phase 1B:** All individuals 75 years of age and older, individuals 16 or older with underlying medical conditions that place them at greater risk from COVID-19, frontline essential workers[5] who cannot work remotely, and vulnerable populations.*
>
> ***Phase 1C:** Includes persons 60 years of age or older, essential workers[6] who cannot work remotely.*
>
> ***Phase 2:** All persons 16 years of age or older.*



** Estimated time frames; dependent on DOH receiving vaccine*
[1]Vulnerable populations at risk of COVID complications can be vaccinated sooner

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persons 16 years of age or older; Moderna can be administered to persons 18 years of age or older.) *These guidelines may change as more information on vaccine effectiveness and additional vaccines become available.*

[5] Frontline essential workers are employed in sectors essential to the functioning of society and are at substantially higher risk of exposure to SARS-CoV-2.

[6] Essential workers are employed in sectors essential to the functioning of society.

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II. PHASED ALLOCATION OF COVID-19 VACCINES

PHASE 1A: CONSISTS OF HEALTHCARE PERSONNEL, STAFF AND RESIDENTS OF LONG-TERM CARE FACILITIES, STAFF OF OTHER CONGREGATE CARE FACILITIES, AND OTHER PERSONNEL WITH DIRECT EXPOSURE TO INFECTIOUS PEOPLE OR MATERIALS

In Phase 1A, workers who provide healthcare and other direct ***in-person*** services to patients, persons with disabilities, and persons living in congregate care settings who are at risk of exposure to the virus or who handle infectious materials will be vaccinated. A non-exhaustive list of individuals are eligible for vaccine in Phase 1A include the following. (For a complete list of individuals falling within Phase 1A, see Appendix A.)

- All hospital personnel
- Residents of nursing homes and long-term care facilities
- Medical first responders
- Congregate setting healthcare workers and those workers in congregate settings who may have close contact with infected persons
- Persons providing direct medical care and other in person services in the community
- Home-based healthcare and hospice workers

PHASE 1B: PERSONS 75 YEARS OR OLDER, 16 YEARS OR OLDER WITH AT LEAST ONE CHRONIC CONDITION, FRONTLINE ESSENTIAL WORKERS IN CRITICAL INFRASTRUCTURE WORKPLACES, VULNERABLE POPULATIONS

Phase 1B will be administered to groups in the following sequence:

- Persons 75 years or older
- Persons 16 years or older with at least one of chronic medical conditions identified below
- Frontline essential workers as identified below
- Vulnerable populations

A. Persons 75 years of age or older: This group faces the highest risk of hospitalization, morbidity and mortality from COVID-19. Vaccine scheduling appointments will be made available to this group as soon as Phase 1B begins; it may take several weeks for all eligible seniors to receive a vaccine.

B. *Persons 16 years of age or older with at least one of the following conditions:*

Conditions with increased risk of severe illness:[7]

- Cancer
- Chronic kidney disease
- COPD (chronic obstructive pulmonary disease), pulmonary fibrosis, cystic fibrosis
- Down syndrome
- Heart conditions (heart failure, hypertension, coronary artery disease or cardiomyopathies)
- Immunocompromised state from solid organ transplant
- Obesity (BMI>=40)
- Pregnancy
- Sickle cell disease
- Type 2 Diabetes

Conditions that might involve increased risk:

- Asthma
- Cerebrovascular disease (previous stroke, TIA)
- Hypertension or high blood pressure
- Immunocompromised state from blood or bone marrow transplant, immune deficiencies, HIV, use of

[7] CDC. People with certain medical conditions. https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html

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corticosteroids or use of other immune-weakening medicines
- Neurologic conditions such as dementia
- Liver disease
- Overweight (BMI >25 but <30)
- Pulmonary fibrosis (having damaged or scarred lung tissues)
- Thalassemia
- Type 1 diabetes

C. Frontline essential workers*:* Workers in essential and other industries that are part of America's critical infrastructure.[8] Many of these workers operate in roles that require significant person-to-person interactions and place them at greater risk of COVID-19 infection. Vaccine access is critical not only to protect these workers but also to maintain the essential services they provide in New Mexico.

Because the number of people in Phase 1B is much larger than available supply, not all frontline essential workers can be vaccinated simultaneously. Frontline essential workers will be vaccinated in the following order.

- Family home caregivers, child care workers, (paid or unpaid) of persons who care for those with high-risk conditions
- Early education and K-12 educators/staff and other personnel in educational institutions needed on-site to support in-person learning
- Grocery store workers
    - Personnel at grocery stores, supermarkets, food banks, farmers' markets and vendors who sell food, convenience stores, and other businesses that generate the majority of their revenue from the sale of canned food, dry goods, fresh fruits and vegetables, fresh meats, fish, and poultry, and any other household consumer products, as well as pet food, feed, and other animal supplies
- Food and agriculture workers, including farms, ranches and other food cultivation operations
- Food processing or packaging operations
- Public transit workers
- Critical manufacturing workers, including:
    - Medical supplies and equipment, manufacturing agents, chemicals, fertilizer, pharmaceuticals, sanitary products, household paper products, microelectronics/semi-conductors, primary metals, electrical equipment, appliances and components, and transportation equipment
- Adult and child protective services workers
- Public health, environmental, occupational health and other workers **who perform in-person** inspections to promote health and safety of licensed and unlicensed facilities and operations
- Mortuary, cremation and cemetery service workers
- Court personnel; elected and appointed officials in government **who are unable to work remotely and/or telework**
- Personnel who provide in-person services necessary to maintain the safety and sanitation of residences or essential businesses including security services, towing services, custodial services, plumbers, electricians, and other skilled trades
- Hardware and construction stores
- Laundromats and dry cleaner services
- Workers not covered in Phase 1A in research centers and laboratories **who are unable to work remotely and/or telework**

[8] https://www.cisa.gov/sites/default/files/publications/Version_3.0_CISA_Guidance_on_Essential_Critical_Infrastructure_Workers_1.pdf

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- Workers and volunteers who provide in-person services to indigent or needy populations
- Laboratories and defense and national security-related operations supporting the United States government, or contractors to the United States government or any federal entity **who are unable to work remotely and/or telework**
- Emergency Operations Center (EOC) personnel; PPE and vaccine warehouse workers

D. Populations in congregate settings: Persons in congregate settings who have not been vaccinated as part of other phases will be identified as a vulnerable population. Populations in congregate settings include those persons unable to self-isolate or stay six feet apart from each other, which can result in increased spread of COVID-19 within and outside congregate settings. Congregate settings include homeless shelters, residential treatment centers, community homes, corrections or detention facilities, and juvenile justice facilities.

PHASE 1C: AGE 60 YEARS OR OLDER, OTHER ESSENTIAL WORKERS

Below is the sequence for Phase 1C vaccine distribution.

A. Persons 60 years or older

B. Essential workers not included in Phase 1B and who are unable to work remotely and/or telework:
Workers falling within this category will be vaccinated in the following order.

- Businesses that store, transport or deliver goods or services directly to residences, retailers, government institutions, or essential businesses
    - Automobile repair facilities, bike repair facilities, and retailers who generate the majority of their revenue from the sale of automobile or bike repair products
    - Airlines and airport operations
    - Taxis and other private transportation providers
    - Transportation network companies
- Utilities, including contractors, suppliers, and supportive operations, engaged in power generation, fuel supply and transmission, water and wastewater supply
- Food service personnel not included in Phase 1B, including restaurant and quick service food operations and food prep centers
- Consumer goods, retail
- Finance/banking staff, including banks, credit unions, insurance providers, payroll services, brokerage services and investment management firms
- Information technology and communications personnel
- Energy industry personnel
- Legal and accounting personnel
- Media personnel
- Veterinary and livestock services, animal shelters and facilities providing pet adoption, grooming, daycare or boarding services

PHASE 2: ALL PERSONS 16 YEARS OF AGE OR OLDER NOT RECOMMENDED FOR VACCINATION IN AN EARLIER PHASE

Note: Only the Pfizer vaccine is authorized for persons 16 or 17 years of age at this time.

Note: Within a given phase, invitations for New Mexicans to schedule vaccine appointments will be made at random.

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VERIFICATION

Verification of Employment: Workers in each category will be required to verify their employment through appropriate means. Additionally, all workers must provide a sworn attestation that the information they provide is true and accurate.

Verification of Qualifying Conditions: Individuals should be prepared to verify medically qualifying conditions. To do so, individuals may provide a note from a provider, emergency department or hospital discharge summary, prescription bottle, prescription, or other form of validation.

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Appendix A

Occupation Category: Healthcare Worker
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Persons providing direct medical care or other in-person services in the following areas: ● Primary care, family practice, behavioral health, family planning, and other specialty practices ● Dialysis and infusion centers ● Inpatient or outpatient medical settings ● Public health offices ● Imaging centers ● Dental ● Optometry and ophthalmology ● Rehabilitation services, including physical therapy, occupational therapy, vocational rehabilitation and independent living ● Community health workers (CHWs) who provide in-person services
Residents and staff in nursing homes and other long-term care facilities
Pharmacists and pharmacy technicians who interact with patients
Home health and hospice workers including home health aides, caregivers, and companions
Workers with patients undergoing chemotherapy
Autopsy room staff, coroners, embalmers, and funeral home staff at risk of exposure to bodily fluids
COVID-19 testing site staff and those administering COVID-19 vaccine
Support service providers for persons with disabilities and persons providing in-person interpretation services
Occupation Category: First Responder
Medical first responders (EMS, fire department, and law enforcement personnel who provide emergency medical services and transportation) and hospital transport personnel
Occupation Category: Congregate Care
Persons working in congregate settings (including correctional facilities, juvenile justice facilities, homeless shelters, residential treatment centers, or community homes)

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State of New Mexico COVID-19 Vaccine Allocation Plan
Phases 1A, 1B, 1C, and 2

Updated January 8, 2021

I. BACKGROUND

New Mexico has prioritized vaccine allocation consistent with the Centers for Disease Control and Prevention (CDC) phases,[1] adapting those phases where necessary to protect New Mexican residents as effectively as possible. The state's vaccination distribution plan aims to a) ensure the continuing functioning of the health care system and essential services in the community and b) protect people at increased risk for severe COVID-19-related illness.

During Phase 1 of COVID-19 vaccine distribution in the United States, supplies will be limited. The federal government is distributing COVID-19 vaccine in weekly allotments to states over the next 3-6 months. Those allotments are insufficient to vaccinate all New Mexicans. In Phase 2, every New Mexico resident who wishes to be vaccinated will have a chance to receive the vaccine.

In coordination with key stakeholders, NMDOH is creating a broad vaccine administration network to ensure sustainable and equitable vaccine access across New Mexico. This network includes private healthcare providers, pharmacies, clinics, hospitals, community service organizations, and mass vaccination events.

The creation of the current protocol has also included input from a team that is diverse by race, ethnicity, language, gender, professional training, clinical settings, life experiences and informed by health equity and racial justice principles as well as the Framework on Equitable Distribution of COVID Vaccine.[2] We recognize that vaccination success will depend on engaging local community leaders and groups as primary carriers of information and building trust to overcome lack of media access, economic isolation and bureaucratic barriers.

As recommended and defined by the CDC,[3] the first doses of COVID-19 vaccines should be offered to healthcare personnel and residents of long-term care facilities (Phase 1A). Subsequently, vaccine should be offered to those categorized in sequential phases (1B and 1C). As more vaccine becomes available, vaccination across multiple phases can occur simultaneously.[4]

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[1] CDC recommendations are based on input from the Advisory Committee on Immunization Practices (ACIP). This federal advisory committee is comprised of medical and public health experts who develop recommendations on the use of vaccines in the United States.

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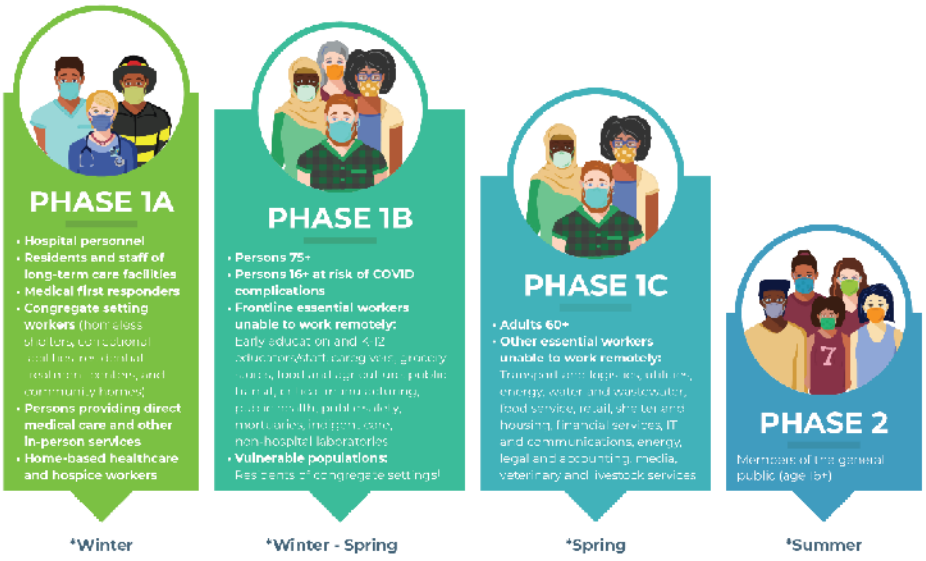
[3] When Vaccine is Limited, Who Gets Vaccinated First? | CDC

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Vaccine availability will initially be limited and therefore must be distributed in a phased approach. These phases are as follows.

> ***<u>Phase 1A</u>: All persons serving in health care settings who have direct or indirect exposure to patients or infectious materials and are unable to work from home, as well as residents of long-term care facilities. Also includes workers in congregate settings.***
>
> ***<u>Phase 1B:</u> All individuals 75 years of age and older, individuals 16 or older with underlying medical conditions that place them at greater risk from COVID-19, frontline essential workers[5] who cannot work remotely, and vulnerable populations.***
>
> ***<u>Phase 1C:</u> Includes persons 60 years of age or older, essential workers[6] who cannot work remotely.***
>
> ***<u>Phase 2:</u> All persons 16 years of age or older.***



** Estimated time frames; dependent on DOH receiving vaccine*
[1]Vulnerable populations at risk of COVID complications can be vaccinated sooner

persons 16 years of age or older; Moderna can be administered to persons 18 years of age or older.) *These guidelines may change as more information on vaccine effectiveness and additional vaccines become available.*

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[6] Essential workers are employed in sectors essential to the functioning of society.

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II. PHASED ALLOCATION OF COVID-19 VACCINES

PHASE 1A: CONSISTS OF HEALTHCARE PERSONNEL, STAFF AND RESIDENTS OF LONG-TERM CARE FACILITIES, STAFF OF OTHER CONGREGATE CARE FACILITIES, AND OTHER PERSONNEL WITH DIRECT EXPOSURE TO INFECTIOUS PEOPLE OR MATERIALS

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- Home-based healthcare and hospice workers

PHASE 1B: PERSONS 75 YEARS OR OLDER, 16 YEARS OR OLDER WITH AT LEAST ONE CHRONIC CONDITION, FRONTLINE ESSENTIAL WORKERS IN CRITICAL INFRASTRUCTURE WORKPLACES, VULNERABLE POPULATIONS

Phase 1B will be administered to groups in the following sequence:

- Persons 75 years or older
- Persons 16 years or older with at least one of chronic medical conditions identified below
- Frontline essential workers as identified below
- Vulnerable populations

A. Persons 75 years of age or older: This group faces the highest risk of hospitalization, morbidity and mortality from COVID-19. Vaccine scheduling appointments will be made available to this group as soon as Phase 1B begins; it may take several weeks for all eligible seniors to receive a vaccine.

B. *Persons 16 years of age or older with at least one of the following conditions:*

Conditions with increased risk of severe illness:[7]

- Cancer
- Chronic kidney disease
- COPD (chronic obstructive pulmonary disease), pulmonary fibrosis, cystic fibrosis
- Down syndrome
- Heart conditions (heart failure, hypertension, coronary artery disease or cardiomyopathies)
- Immunocompromised state from solid organ transplant
- Obesity (BMI>=40)
- Pregnancy
- Sickle cell disease
- Type 2 Diabetes

Conditions that might involve increased risk:

- Asthma
- Cerebrovascular disease (previous stroke, TIA)
- Hypertension or high blood pressure
- Immunocompromised state from blood or bone marrow transplant, immune deficiencies, HIV, use of

[7] CDC. People with certain medical conditions. https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html

AMERICAN OVERSIGHT

corticosteroids or use of other immune-weakening medicines
- Neurologic conditions such as dementia
- Liver disease
- Overweight (BMI >25 but <30)
- Pulmonary fibrosis (having damaged or scarred lung tissues)
- Thalassemia
- Type 1 diabetes

C. Frontline essential workers*:* Workers in essential and other industries that are part of America's critical infrastructure.[8] Many of these workers operate in roles that require significant person-to-person interactions and place them at greater risk of COVID-19 infection. Vaccine access is critical not only to protect these workers but also to maintain the essential services they provide in New Mexico.

Because the number of people in Phase 1B is much larger than available supply, not all frontline essential workers can be vaccinated simultaneously. Frontline essential workers will be vaccinated in the following order.

- Family home caregivers, child care workers, (paid or unpaid) of persons who care for those with high-risk conditions
- Early education and K-12 educators/staff and other personnel in educational institutions needed on-site to support in-person learning
- Grocery store workers
    - Personnel at grocery stores, supermarkets, food banks, farmers' markets and vendors who sell food, convenience stores, and other businesses that generate the majority of their revenue from the sale of canned food, dry goods, fresh fruits and vegetables, fresh meats, fish, and poultry, and any other household consumer products, as well as pet food, feed, and other animal supplies
- Food and agriculture workers, including farms, ranches and other food cultivation operations
- Food processing or packaging operations
- Public transit workers
- Critical manufacturing workers, including:
    - Medical supplies and equipment, manufacturing agents, chemicals, fertilizer, pharmaceuticals, sanitary products, household paper products, microelectronics/semi-conductors, primary metals, electrical equipment, appliances and components, and transportation equipment
- Adult and child protective services workers
- Public health, environmental, occupational health and other workers **who perform in-person** inspections to promote health and safety of licensed and unlicensed facilities and operations
- Mortuary, cremation and cemetery service workers
- Court personnel; elected and appointed officials in government **who are unable to work remotely and/or telework**
- Personnel who provide in-person services necessary to maintain the safety and sanitation of residences or essential businesses including security services, towing services, custodial services, plumbers, electricians, and other skilled trades
- Hardware and construction stores
- Laundromats and dry cleaner services
- Workers not covered in Phase 1A in research centers and laboratories **who are unable to work remotely and/or telework**

[8] https://www.cisa.gov/sites/default/files/publications/Version_3.0_CISA_Guidance_on_Essential_Critical_Infrastructure_Workers_1.pdf

AMERICAN OVERSIGHT

- Workers and volunteers who provide in-person services to indigent or needy populations
- Laboratories and defense and national security-related operations supporting the United States government, or contractors to the United States government or any federal entity **who are unable to work remotely and/or telework**
- Emergency Operations Center (EOC) personnel; PPE and vaccine warehouse workers

D. Populations in congregate settings: Persons in congregate settings who have not been vaccinated as part of other phases will be identified as a vulnerable population. Populations in congregate settings include those persons unable to self-isolate or stay six feet apart from each other, which can result in increased spread of COVID-19 within and outside congregate settings. Congregate settings include homeless shelters, residential treatment centers, community homes, corrections or detention facilities, and juvenile justice facilities.

PHASE 1C: AGE 60 YEARS OR OLDER, OTHER ESSENTIAL WORKERS

Below is the sequence for Phase 1C vaccine distribution.

A. Persons 60 years or older

B. Essential workers not included in Phase 1B and who are unable to work remotely and/or telework:
Workers falling within this category will be vaccinated in the following order.

- Businesses that store, transport or deliver goods or services directly to residences, retailers, government institutions, or essential businesses
    - Automobile repair facilities, bike repair facilities, and retailers who generate the majority of their revenue from the sale of automobile or bike repair products
    - Airlines and airport operations
    - Taxis and other private transportation providers
    - Transportation network companies
- Utilities, including contractors, suppliers, and supportive operations, engaged in power generation, fuel supply and transmission, water and wastewater supply
- Food service personnel not included in Phase 1B, including restaurant and quick service food operations and food prep centers
- Consumer goods, retail
- Finance/banking staff, including banks, credit unions, insurance providers, payroll services, brokerage services and investment management firms
- Information technology and communications personnel
- Energy industry personnel
- Legal and accounting personnel
- Media personnel
- Veterinary and livestock services, animal shelters and facilities providing pet adoption, grooming, daycare or boarding services

PHASE 2: ALL PERSONS 16 YEARS OF AGE OR OLDER NOT RECOMMENDED FOR VACCINATION IN AN EARLIER PHASE

Note: Only the Pfizer vaccine is authorized for persons 16 or 17 years of age at this time.

Note: Within a given phase, invitations for New Mexicans to schedule vaccine appointments will be made at random.

AMERICAN OVERSIGHT

VERIFICATION

Verification of Employment: Workers in each category will be required to verify their employment through appropriate means. Additionally, all workers must provide a sworn attestation that the information they provide is true and accurate.

Verification of Qualifying Conditions: Individuals should be prepared to verify medically qualifying conditions. To do so, individuals may provide a note from a provider, emergency department or hospital discharge summary, prescription bottle, prescription, or other form of validation.

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Appendix A

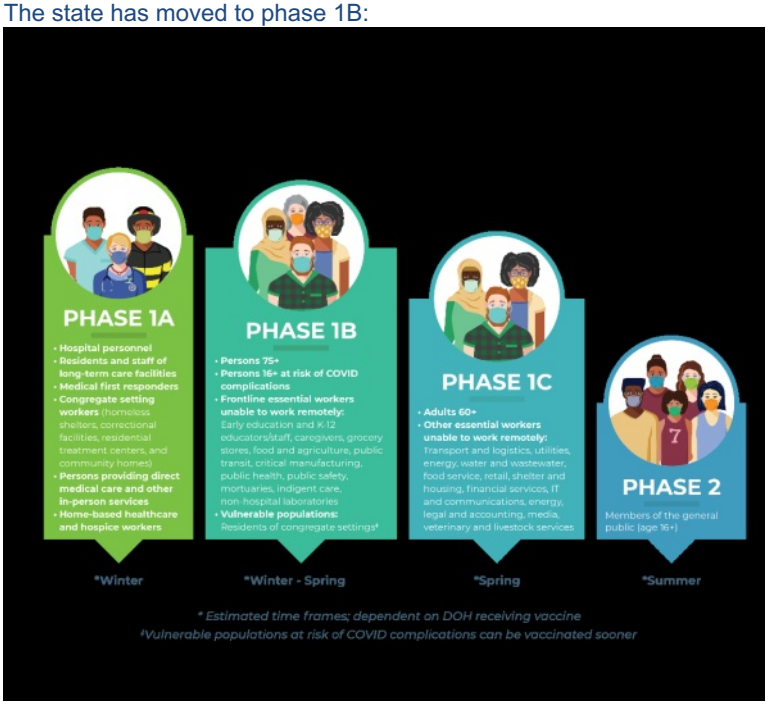
Occupation Category: Healthcare Worker
All hospital personnel with direct patient care ● A wide array of medical house staff (i.e., interns, residents, fellows), nurses, nurses' aides, physical therapists, physicians, physicians' assistants, respiratory therapists, speech pathologists, students (medical, nursing, PT, RT), midwives, nutritionists, CRNAs, audiology, interpreters, blood donation workers, podiatrists, laboratorians, organ donation procurement workers ● Staff who provide cleaning, food and other services to support patients ● Emergency room staff ● Ancillary staff directly interacting with patients or infectious materials: laboratory personnel, phlebotomists, radiology technicians
Persons providing direct medical care or other in-person services in the following areas: ● Primary care, family practice, behavioral health, family planning, and other specialty practices ● Dialysis and infusion centers ● Inpatient or outpatient medical settings ● Public health offices ● Imaging centers ● Dental ● Optometry and ophthalmology ● Rehabilitation services, including physical therapy, occupational therapy, vocational rehabilitation and independent living ● Community health workers (CHWs) who provide in-person services
Residents and staff in nursing homes and other long-term care facilities
Pharmacists and pharmacy technicians who interact with patients
Home health and hospice workers including home health aides, caregivers, and companions
Workers with patients undergoing chemotherapy
Autopsy room staff, coroners, embalmers, and funeral home staff at risk of exposure to bodily fluids
COVID-19 testing site staff and those administering COVID-19 vaccine
Support service providers for persons with disabilities and persons providing in-person interpretation services
Occupation Category: First Responder
Medical first responders (EMS, fire department, and law enforcement personnel who provide emergency medical services and transportation) and hospital transport personnel
Occupation Category: Congregate Care
Persons working in congregate settings (including correctional facilities, juvenile justice facilities, homeless shelters, residential treatment centers, or community homes)

AMERICAN OVERSIGHT
NM-OTERO-21-0275-A-000707

From: Susan Mayes <smayes@nmcounties.org>
Sent: Tuesday, January 12, 2021 10:48 AM EST
To: Susan Mayes <smayes@nmcounties.org>
Subject: FW: Phase 1B Vaccine Activation Plan REVISED
Attachment(s): "2021.1.8 DOH Phase Guidance.pdf"

Hi all,
Please see the below message and the attached NM DOH Phase Guidance. This is a call for trusted voices in our counties to record a short PSA encouraging your communities to register for the vaccine. Please consider being the voice for your county. We are all in this together. Let's get the word out to help keep this virus at bay and start down the long road to go back to normal.

The state has moved to phase 1B:



Best,

Susan D. Mayes
505.820.8102 | Cell: 505.469.0042
NEW MEXICO COUNTIES 33 STRONG

From: Audrey Herrera-Castillo <audrey@momentumsantafe.com>

On Friday, January 8, 2021, the state of New Mexico moved into phase 1B distribution of the COVID-19 vaccine. Phase 1B include a***ll individuals 75 years of age and older, individuals 16 or older with underlying medical conditions that place them at greater risk from COVID-19, frontline essential workers who cannot work remotely, and vulnerable populations.***

The attached document has the most current information related to the distribution. Please share it with your members.

We are currently scheduling individuals to record a Trusted Voices PSA via a short Zoom session. We are searching for representation from rural and urban communities around the state. The nomination portal remains open, Step Up to the Mic. Also, individuals may schedule their session immediately by clicking on this link (https://momentumsantafe.as.me/TrustedVoices).

Please let me know if you have any questions.
Thank you!

Audrey,
Trusted Voices Manager

Audrey Herrera-Castillo
Momentum Santa Fe
505-670-0115
momentumsantafe.com

AMERICAN OVERSIGHT

State of New Mexico COVID-19 Vaccine Allocation Plan
Phases 1A, 1B, 1C, and 2

Updated January 8, 2021

I. BACKGROUND

New Mexico has prioritized vaccine allocation consistent with the Centers for Disease Control and Prevention (CDC) phases,[1] adapting those phases where necessary to protect New Mexican residents as effectively as possible. The state's vaccination distribution plan aims to a) ensure the continuing functioning of the health care system and essential services in the community and b) protect people at increased risk for severe COVID-19-related illness.

During Phase 1 of COVID-19 vaccine distribution in the United States, supplies will be limited. The federal government is distributing COVID-19 vaccine in weekly allotments to states over the next 3-6 months. Those allotments are insufficient to vaccinate all New Mexicans. In Phase 2, every New Mexico resident who wishes to be vaccinated will have a chance to receive the vaccine.

In coordination with key stakeholders, NMDOH is creating a broad vaccine administration network to ensure sustainable and equitable vaccine access across New Mexico. This network includes private healthcare providers, pharmacies, clinics, hospitals, community service organizations, and mass vaccination events.

The creation of the current protocol has also included input from a team that is diverse by race, ethnicity, language, gender, professional training, clinical settings, life experiences and informed by health equity and racial justice principles as well as the Framework on Equitable Distribution of COVID Vaccine.[2] We recognize that vaccination success will depend on engaging local community leaders and groups as primary carriers of information and building trust to overcome lack of media access, economic isolation and bureaucratic barriers.

As recommended and defined by the CDC,[3] the first doses of COVID-19 vaccines should be offered to healthcare personnel and residents of long-term care facilities (Phase 1A). Subsequently, vaccine should be offered to those categorized in sequential phases (1B and 1C). As more vaccine becomes available, vaccination across multiple phases can occur simultaneously.[4]

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[1] CDC recommendations are based on input from the Advisory Committee on Immunization Practices (ACIP). This federal advisory committee is comprised of medical and public health experts who develop recommendations on the use of vaccines in the United States.

[2] National Academies of Sciences, Engineering, and Medicine. 2020. *Framework for equitable allocation of COVID-19 vaccine*. Washington, DC: The National Academies Press. https://doi.org/10.17226/25917.

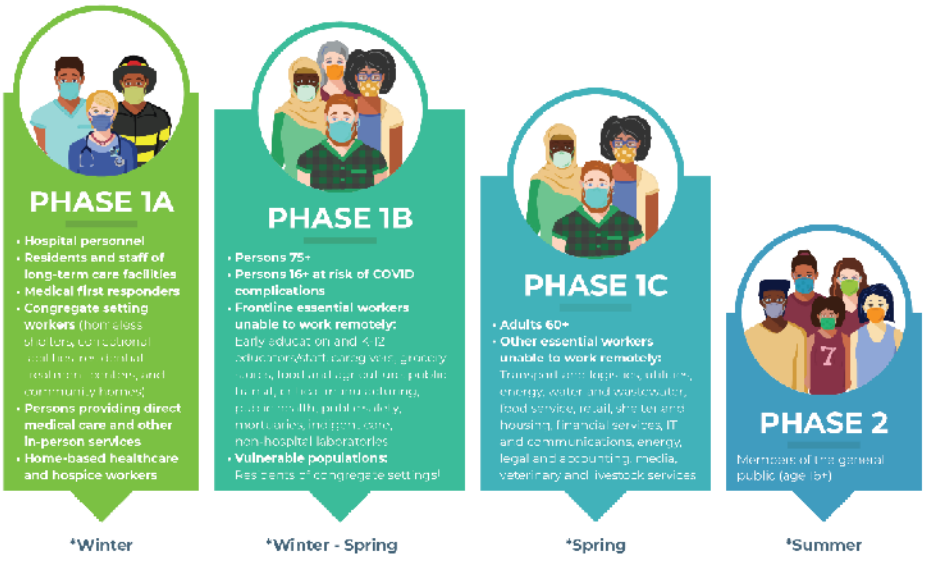
[3] When Vaccine is Limited, Who Gets Vaccinated First? | CDC

[4] While no data currently exists addressing the safety and efficacy of Pfizer's or Moderna's COVID-19 vaccines in pregnant women, the CDC has recommended that pregnant women may be offered the vaccine within the phase they fit in, following consultation with their medical provider. Additionally, none of the vaccines currently approved for Emergency Use Authorization have been tested on or approved for use in children younger than 16. (Pfizer can be administered to

AMERICAN OVERSIGHT

Vaccine availability will initially be limited and therefore must be distributed in a phased approach. These phases are as follows.

> ***Phase 1A**: All persons serving in health care settings who have direct or indirect exposure to patients or infectious materials and are unable to work from home, as well as residents of long-term care facilities. Also includes workers in congregate settings.*
>
> ***Phase 1B:** All individuals 75 years of age and older, individuals 16 or older with underlying medical conditions that place them at greater risk from COVID-19, frontline essential workers[5] who cannot work remotely, and vulnerable populations.*
>
> ***Phase 1C:** Includes persons 60 years of age or older, essential workers[6] who cannot work remotely.*
>
> ***Phase 2:** All persons 16 years of age or older.*



** Estimated time frames; dependent on DOH receiving vaccine*
[1]Vulnerable populations at risk of COVID complications can be vaccinated sooner

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persons 16 years of age or older; Moderna can be administered to persons 18 years of age or older.) *These guidelines may change as more information on vaccine effectiveness and additional vaccines become available.*

[5] Frontline essential workers are employed in sectors essential to the functioning of society and are at substantially higher risk of exposure to SARS-CoV-2.

[6] Essential workers are employed in sectors essential to the functioning of society.

AMERICAN OVERSIGHT

II. PHASED ALLOCATION OF COVID-19 VACCINES

PHASE 1A: CONSISTS OF HEALTHCARE PERSONNEL, STAFF AND RESIDENTS OF LONG-TERM CARE FACILITIES, STAFF OF OTHER CONGREGATE CARE FACILITIES, AND OTHER PERSONNEL WITH DIRECT EXPOSURE TO INFECTIOUS PEOPLE OR MATERIALS

In Phase 1A, workers who provide healthcare and other direct ***in-person*** services to patients, persons with disabilities, and persons living in congregate care settings who are at risk of exposure to the virus or who handle infectious materials will be vaccinated. A non-exhaustive list of individuals are eligible for vaccine in Phase 1A include the following. (For a complete list of individuals falling within Phase 1A, see Appendix A.)

- All hospital personnel
- Residents of nursing homes and long-term care facilities
- Medical first responders
- Congregate setting healthcare workers and those workers in congregate settings who may have close contact with infected persons
- Persons providing direct medical care and other in person services in the community
- Home-based healthcare and hospice workers

PHASE 1B: PERSONS 75 YEARS OR OLDER, 16 YEARS OR OLDER WITH AT LEAST ONE CHRONIC CONDITION, FRONTLINE ESSENTIAL WORKERS IN CRITICAL INFRASTRUCTURE WORKPLACES, VULNERABLE POPULATIONS

Phase 1B will be administered to groups in the following sequence:

- Persons 75 years or older
- Persons 16 years or older with at least one of chronic medical conditions identified below
- Frontline essential workers as identified below
- Vulnerable populations

A. Persons 75 years of age or older: This group faces the highest risk of hospitalization, morbidity and mortality from COVID-19. Vaccine scheduling appointments will be made available to this group as soon as Phase 1B begins; it may take several weeks for all eligible seniors to receive a vaccine.

B. *Persons 16 years of age or older with at least one of the following conditions:*

Conditions with increased risk of severe illness:[7]

- Cancer
- Chronic kidney disease
- COPD (chronic obstructive pulmonary disease), pulmonary fibrosis, cystic fibrosis
- Down syndrome
- Heart conditions (heart failure, hypertension, coronary artery disease or cardiomyopathies)
- Immunocompromised state from solid organ transplant
- Obesity (BMI>=40)
- Pregnancy
- Sickle cell disease
- Type 2 Diabetes

Conditions that might involve increased risk:

- Asthma
- Cerebrovascular disease (previous stroke, TIA)
- Hypertension or high blood pressure
- Immunocompromised state from blood or bone marrow transplant, immune deficiencies, HIV, use of

[7] CDC. People with certain medical conditions. https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html

AMERICAN OVERSIGHT
NM-OTERO-21-0275-A-000711

corticosteroids or use of other immune-weakening medicines
- Neurologic conditions such as dementia
- Liver disease
- Overweight (BMI >25 but <30)
- Pulmonary fibrosis (having damaged or scarred lung tissues)
- Thalassemia
- Type 1 diabetes

C. Frontline essential workers*:* Workers in essential and other industries that are part of America's critical infrastructure.[8] Many of these workers operate in roles that require significant person-to-person interactions and place them at greater risk of COVID-19 infection. Vaccine access is critical not only to protect these workers but also to maintain the essential services they provide in New Mexico.

Because the number of people in Phase 1B is much larger than available supply, not all frontline essential workers can be vaccinated simultaneously. Frontline essential workers will be vaccinated in the following order.

- Family home caregivers, child care workers, (paid or unpaid) of persons who care for those with high-risk conditions
- Early education and K-12 educators/staff and other personnel in educational institutions needed on-site to support in-person learning
- Grocery store workers
    - Personnel at grocery stores, supermarkets, food banks, farmers' markets and vendors who sell food, convenience stores, and other businesses that generate the majority of their revenue from the sale of canned food, dry goods, fresh fruits and vegetables, fresh meats, fish, and poultry, and any other household consumer products, as well as pet food, feed, and other animal supplies
- Food and agriculture workers, including farms, ranches and other food cultivation operations
- Food processing or packaging operations
- Public transit workers
- Critical manufacturing workers, including:
    - Medical supplies and equipment, manufacturing agents, chemicals, fertilizer, pharmaceuticals, sanitary products, household paper products, microelectronics/semi-conductors, primary metals, electrical equipment, appliances and components, and transportation equipment
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- Mortuary, cremation and cemetery service workers
- Court personnel; elected and appointed officials in government **who are unable to work remotely and/or telework**
- Personnel who provide in-person services necessary to maintain the safety and sanitation of residences or essential businesses including security services, towing services, custodial services, plumbers, electricians, and other skilled trades
- Hardware and construction stores
- Laundromats and dry cleaner services
- Workers not covered in Phase 1A in research centers and laboratories **who are unable to work remotely and/or telework**

[8] https://www.cisa.gov/sites/default/files/publications/Version_3.0_CISA_Guidance_on_Essential_Critical_Infrastructure_Workers_1.pdf

AMERICAN OVERSIGHT
NM-OTERO-21-0275-A-000712

- Workers and volunteers who provide in-person services to indigent or needy populations
- Laboratories and defense and national security-related operations supporting the United States government, or contractors to the United States government or any federal entity **who are unable to work remotely and/or telework**
- Emergency Operations Center (EOC) personnel; PPE and vaccine warehouse workers

D. Populations in congregate settings: Persons in congregate settings who have not been vaccinated as part of other phases will be identified as a vulnerable population. Populations in congregate settings include those persons unable to self-isolate or stay six feet apart from each other, which can result in increased spread of COVID-19 within and outside congregate settings. Congregate settings include homeless shelters, residential treatment centers, community homes, corrections or detention facilities, and juvenile justice facilities.

PHASE 1C: AGE 60 YEARS OR OLDER, OTHER ESSENTIAL WORKERS

Below is the sequence for Phase 1C vaccine distribution.

A. Persons 60 years or older

B. Essential workers not included in Phase 1B and who are unable to work remotely and/or telework:
Workers falling within this category will be vaccinated in the following order.

- Businesses that store, transport or deliver goods or services directly to residences, retailers, government institutions, or essential businesses
    - Automobile repair facilities, bike repair facilities, and retailers who generate the majority of their revenue from the sale of automobile or bike repair products
    - Airlines and airport operations
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    - Transportation network companies
- Utilities, including contractors, suppliers, and supportive operations, engaged in power generation, fuel supply and transmission, water and wastewater supply
- Food service personnel not included in Phase 1B, including restaurant and quick service food operations and food prep centers
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- Information technology and communications personnel
- Energy industry personnel
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- Veterinary and livestock services, animal shelters and facilities providing pet adoption, grooming, daycare or boarding services

PHASE 2: ALL PERSONS 16 YEARS OF AGE OR OLDER NOT RECOMMENDED FOR VACCINATION IN AN EARLIER PHASE

Note: Only the Pfizer vaccine is authorized for persons 16 or 17 years of age at this time.

Note: Within a given phase, invitations for New Mexicans to schedule vaccine appointments will be made at random.

AMERICAN OVERSIGHT

VERIFICATION

Verification of Employment: Workers in each category will be required to verify their employment through appropriate means. Additionally, all workers must provide a sworn attestation that the information they provide is true and accurate.

Verification of Qualifying Conditions: Individuals should be prepared to verify medically qualifying conditions. To do so, individuals may provide a note from a provider, emergency department or hospital discharge summary, prescription bottle, prescription, or other form of validation.

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Appendix A

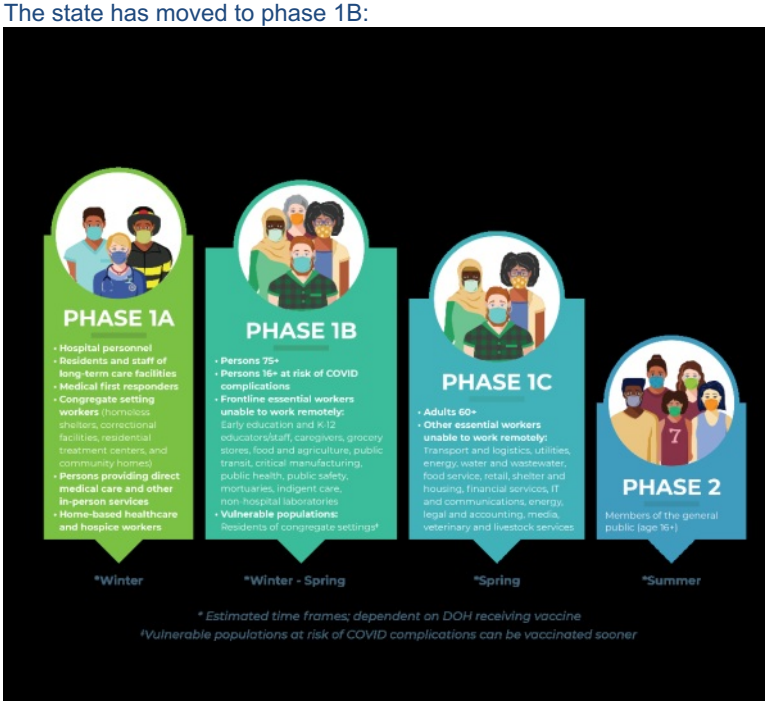
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All hospital personnel with direct patient care ● A wide array of medical house staff (i.e., interns, residents, fellows), nurses, nurses' aides, physical therapists, physicians, physicians' assistants, respiratory therapists, speech pathologists, students (medical, nursing, PT, RT), midwives, nutritionists, CRNAs, audiology, interpreters, blood donation workers, podiatrists, laboratorians, organ donation procurement workers ● Staff who provide cleaning, food and other services to support patients ● Emergency room staff ● Ancillary staff directly interacting with patients or infectious materials: laboratory personnel, phlebotomists, radiology technicians
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Residents and staff in nursing homes and other long-term care facilities
Pharmacists and pharmacy technicians who interact with patients
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Workers with patients undergoing chemotherapy
Autopsy room staff, coroners, embalmers, and funeral home staff at risk of exposure to bodily fluids
COVID-19 testing site staff and those administering COVID-19 vaccine
Support service providers for persons with disabilities and persons providing in-person interpretation services
Occupation Category: First Responder
Medical first responders (EMS, fire department, and law enforcement personnel who provide emergency medical services and transportation) and hospital transport personnel
Occupation Category: Congregate Care
Persons working in congregate settings (including correctional facilities, juvenile justice facilities, homeless shelters, residential treatment centers, or community homes)

AMERICAN OVERSIGHT
NM-OTERO-21-0275-A-000715

From: Susan Mayes <smayes@nmcounties.org>
Sent: Tuesday, January 12, 2021 10:48 AM EST
To: Susan Mayes <smayes@nmcounties.org>
Subject: FW: Phase 1B Vaccine Activation Plan REVISED
Attachment(s): "2021.1.8 DOH Phase Guidance.pdf"

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The state has moved to phase 1B:



Best,

Susan D. Mayes
505.820.8102 | Cell: 505.469.0042
NEW MEXICO COUNTIES 33 STRONG

From: Audrey Herrera-Castillo <audrey@momentumsantafe.com>

On Friday, January 8, 2021, the state of New Mexico moved into phase 1B distribution of the COVID-19 vaccine. Phase 1B include a***ll individuals 75 years of age and older, individuals 16 or older with underlying medical conditions that place them at greater risk from COVID-19, frontline essential workers who cannot work remotely, and vulnerable populations.***

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Please let me know if you have any questions.
Thank you!

Audrey,
Trusted Voices Manager

Audrey Herrera-Castillo
Momentum Santa Fe
505-670-0115
momentumsantafe.com

AMERICAN OVERSIGHT

State of New Mexico COVID-19 Vaccine Allocation Plan
Phases 1A, 1B, 1C, and 2

Updated January 8, 2021

I. BACKGROUND

New Mexico has prioritized vaccine allocation consistent with the Centers for Disease Control and Prevention (CDC) phases,[1] adapting those phases where necessary to protect New Mexican residents as effectively as possible. The state's vaccination distribution plan aims to a) ensure the continuing functioning of the health care system and essential services in the community and b) protect people at increased risk for severe COVID-19-related illness.

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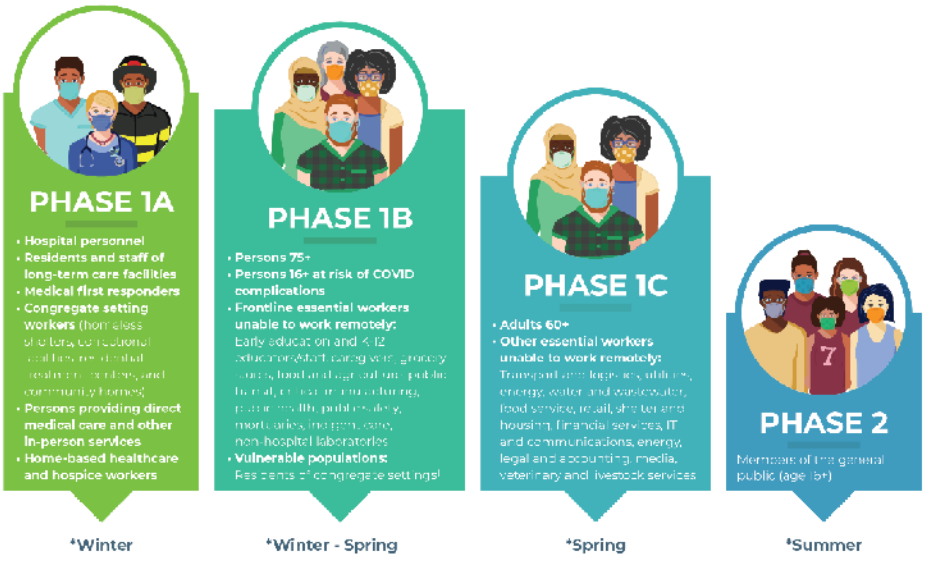
[3] When Vaccine is Limited, Who Gets Vaccinated First? | CDC

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AMERICAN OVERSIGHT

Vaccine availability will initially be limited and therefore must be distributed in a phased approach. These phases are as follows.

> ***Phase 1A**: All persons serving in health care settings who have direct or indirect exposure to patients or infectious materials and are unable to work from home, as well as residents of long-term care facilities. Also includes workers in congregate settings.*
>
> ***Phase 1B:** All individuals 75 years of age and older, individuals 16 or older with underlying medical conditions that place them at greater risk from COVID-19, frontline essential workers[5] who cannot work remotely, and vulnerable populations.*
>
> ***Phase 1C:** Includes persons 60 years of age or older, essential workers[6] who cannot work remotely.*
>
> ***Phase 2:** All persons 16 years of age or older.*



** Estimated time frames; dependent on DOH receiving vaccine*
[1]Vulnerable populations at risk of COVID complications can be vaccinated sooner

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persons 16 years of age or older; Moderna can be administered to persons 18 years of age or older.) *These guidelines may change as more information on vaccine effectiveness and additional vaccines become available.*

[5] Frontline essential workers are employed in sectors essential to the functioning of society and are at substantially higher risk of exposure to SARS-CoV-2.

[6] Essential workers are employed in sectors essential to the functioning of society.

AMERICAN OVERSIGHT

NM-OTERO-21-0275-A-000718

II. PHASED ALLOCATION OF COVID-19 VACCINES

PHASE 1A: CONSISTS OF HEALTHCARE PERSONNEL, STAFF AND RESIDENTS OF LONG-TERM CARE FACILITIES, STAFF OF OTHER CONGREGATE CARE FACILITIES, AND OTHER PERSONNEL WITH DIRECT EXPOSURE TO INFECTIOUS PEOPLE OR MATERIALS

In Phase 1A, workers who provide healthcare and other direct ***in-person*** services to patients, persons with disabilities, and persons living in congregate care settings who are at risk of exposure to the virus or who handle infectious materials will be vaccinated. A non-exhaustive list of individuals are eligible for vaccine in Phase 1A include the following. (For a complete list of individuals falling within Phase 1A, see Appendix A.)

- All hospital personnel
- Residents of nursing homes and long-term care facilities
- Medical first responders
- Congregate setting healthcare workers and those workers in congregate settings who may have close contact with infected persons
- Persons providing direct medical care and other in person services in the community
- Home-based healthcare and hospice workers

PHASE 1B: PERSONS 75 YEARS OR OLDER, 16 YEARS OR OLDER WITH AT LEAST ONE CHRONIC CONDITION, FRONTLINE ESSENTIAL WORKERS IN CRITICAL INFRASTRUCTURE WORKPLACES, VULNERABLE POPULATIONS

Phase 1B will be administered to groups in the following sequence:

- Persons 75 years or older
- Persons 16 years or older with at least one of chronic medical conditions identified below
- Frontline essential workers as identified below
- Vulnerable populations

A. Persons 75 years of age or older: This group faces the highest risk of hospitalization, morbidity and mortality from COVID-19. Vaccine scheduling appointments will be made available to this group as soon as Phase 1B begins; it may take several weeks for all eligible seniors to receive a vaccine.

B. *Persons 16 years of age or older with at least one of the following conditions:*

Conditions with increased risk of severe illness:[7]

- Cancer
- Chronic kidney disease
- COPD (chronic obstructive pulmonary disease), pulmonary fibrosis, cystic fibrosis
- Down syndrome
- Heart conditions (heart failure, hypertension, coronary artery disease or cardiomyopathies)
- Immunocompromised state from solid organ transplant
- Obesity (BMI>=40)
- Pregnancy
- Sickle cell disease
- Type 2 Diabetes

Conditions that might involve increased risk:

- Asthma
- Cerebrovascular disease (previous stroke, TIA)
- Hypertension or high blood pressure
- Immunocompromised state from blood or bone marrow transplant, immune deficiencies, HIV, use of

[7] CDC. People with certain medical conditions. https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html

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corticosteroids or use of other immune-weakening medicines
- Neurologic conditions such as dementia
- Liver disease
- Overweight (BMI >25 but <30)
- Pulmonary fibrosis (having damaged or scarred lung tissues)
- Thalassemia
- Type 1 diabetes

C. Frontline essential workers*:* Workers in essential and other industries that are part of America's critical infrastructure.[8] Many of these workers operate in roles that require significant person-to-person interactions and place them at greater risk of COVID-19 infection. Vaccine access is critical not only to protect these workers but also to maintain the essential services they provide in New Mexico.

Because the number of people in Phase 1B is much larger than available supply, not all frontline essential workers can be vaccinated simultaneously. Frontline essential workers will be vaccinated in the following order.

- Family home caregivers, child care workers, (paid or unpaid) of persons who care for those with high-risk conditions
- Early education and K-12 educators/staff and other personnel in educational institutions needed on-site to support in-person learning
- Grocery store workers
    - Personnel at grocery stores, supermarkets, food banks, farmers' markets and vendors who sell food, convenience stores, and other businesses that generate the majority of their revenue from the sale of canned food, dry goods, fresh fruits and vegetables, fresh meats, fish, and poultry, and any other household consumer products, as well as pet food, feed, and other animal supplies
- Food and agriculture workers, including farms, ranches and other food cultivation operations
- Food processing or packaging operations
- Public transit workers
- Critical manufacturing workers, including:
    - Medical supplies and equipment, manufacturing agents, chemicals, fertilizer, pharmaceuticals, sanitary products, household paper products, microelectronics/semi-conductors, primary metals, electrical equipment, appliances and components, and transportation equipment
- Adult and child protective services workers
- Public health, environmental, occupational health and other workers **who perform in-person** inspections to promote health and safety of licensed and unlicensed facilities and operations
- Mortuary, cremation and cemetery service workers
- Court personnel; elected and appointed officials in government **who are unable to work remotely and/or telework**
- Personnel who provide in-person services necessary to maintain the safety and sanitation of residences or essential businesses including security services, towing services, custodial services, plumbers, electricians, and other skilled trades
- Hardware and construction stores
- Laundromats and dry cleaner services
- Workers not covered in Phase 1A in research centers and laboratories **who are unable to work remotely and/or telework**

[8] https://www.cisa.gov/sites/default/files/publications/Version_3.0_CISA_Guidance_on_Essential_Critical_Infrastructure_Workers_1.pdf

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- Workers and volunteers who provide in-person services to indigent or needy populations
- Laboratories and defense and national security-related operations supporting the United States government, or contractors to the United States government or any federal entity **who are unable to work remotely and/or telework**
- Emergency Operations Center (EOC) personnel; PPE and vaccine warehouse workers

D. Populations in congregate settings: Persons in congregate settings who have not been vaccinated as part of other phases will be identified as a vulnerable population. Populations in congregate settings include those persons unable to self-isolate or stay six feet apart from each other, which can result in increased spread of COVID-19 within and outside congregate settings. Congregate settings include homeless shelters, residential treatment centers, community homes, corrections or detention facilities, and juvenile justice facilities.

PHASE 1C: AGE 60 YEARS OR OLDER, OTHER ESSENTIAL WORKERS

Below is the sequence for Phase 1C vaccine distribution.

A. Persons 60 years or older

B. Essential workers not included in Phase 1B and who are unable to work remotely and/or telework:
Workers falling within this category will be vaccinated in the following order.

- Businesses that store, transport or deliver goods or services directly to residences, retailers, government institutions, or essential businesses
    - Automobile repair facilities, bike repair facilities, and retailers who generate the majority of their revenue from the sale of automobile or bike repair products
    - Airlines and airport operations
    - Taxis and other private transportation providers
    - Transportation network companies
- Utilities, including contractors, suppliers, and supportive operations, engaged in power generation, fuel supply and transmission, water and wastewater supply
- Food service personnel not included in Phase 1B, including restaurant and quick service food operations and food prep centers
- Consumer goods, retail
- Finance/banking staff, including banks, credit unions, insurance providers, payroll services, brokerage services and investment management firms
- Information technology and communications personnel
- Energy industry personnel
- Legal and accounting personnel
- Media personnel
- Veterinary and livestock services, animal shelters and facilities providing pet adoption, grooming, daycare or boarding services

PHASE 2: ALL PERSONS 16 YEARS OF AGE OR OLDER NOT RECOMMENDED FOR VACCINATION IN AN EARLIER PHASE

Note: Only the Pfizer vaccine is authorized for persons 16 or 17 years of age at this time.

Note: Within a given phase, invitations for New Mexicans to schedule vaccine appointments will be made at random.

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VERIFICATION

Verification of Employment: Workers in each category will be required to verify their employment through appropriate means. Additionally, all workers must provide a sworn attestation that the information they provide is true and accurate.

Verification of Qualifying Conditions: Individuals should be prepared to verify medically qualifying conditions. To do so, individuals may provide a note from a provider, emergency department or hospital discharge summary, prescription bottle, prescription, or other form of validation.

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Appendix A

Occupation Category: Healthcare Worker
All hospital personnel with direct patient care ● A wide array of medical house staff (i.e., interns, residents, fellows), nurses, nurses' aides, physical therapists, physicians, physicians' assistants, respiratory therapists, speech pathologists, students (medical, nursing, PT, RT), midwives, nutritionists, CRNAs, audiology, interpreters, blood donation workers, podiatrists, laboratorians, organ donation procurement workers ● Staff who provide cleaning, food and other services to support patients ● Emergency room staff ● Ancillary staff directly interacting with patients or infectious materials: laboratory personnel, phlebotomists, radiology technicians
Persons providing direct medical care or other in-person services in the following areas: ● Primary care, family practice, behavioral health, family planning, and other specialty practices ● Dialysis and infusion centers ● Inpatient or outpatient medical settings ● Public health offices ● Imaging centers ● Dental ● Optometry and ophthalmology ● Rehabilitation services, including physical therapy, occupational therapy, vocational rehabilitation and independent living ● Community health workers (CHWs) who provide in-person services
Residents and staff in nursing homes and other long-term care facilities
Pharmacists and pharmacy technicians who interact with patients
Home health and hospice workers including home health aides, caregivers, and companions
Workers with patients undergoing chemotherapy
Autopsy room staff, coroners, embalmers, and funeral home staff at risk of exposure to bodily fluids
COVID-19 testing site staff and those administering COVID-19 vaccine
Support service providers for persons with disabilities and persons providing in-person interpretation services
Occupation Category: First Responder
Medical first responders (EMS, fire department, and law enforcement personnel who provide emergency medical services and transportation) and hospital transport personnel
Occupation Category: Congregate Care
Persons working in congregate settings (including correctional facilities, juvenile justice facilities, homeless shelters, residential treatment centers, or community homes)

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From: Monica Steeby <m.steeby@ocedc.com>
Sent: Friday, January 22, 2021 5:47 PM EST
To: undisclosed-recipients:
Subject: Fwd: EDD Resource Wrap Up

Good Afternoon,

Please see the latest edition of NM EDD's Weekly Resource Wrap-up. You will find the latest information on the Shuttered Venue Operators Grant, upcoming webinars, other programs and resources available.

Have a great weekend!
Monica

Gov. Michelle Lujan Grisham
Cabinet Secretary Alicia J. Keyes
Deputy Secretary Jon Clark

NEW MEXICO ECONOMIC DEVELOPMENT DEPARTMENT

WEEKLY RESOURCE WRAP-UP

January 22, 2021

Visit our website | **View past newsletters** | **Join our email list**

UPCOMING WEBINARS AND EVENTS

COVID-19 Recovery Resources

NEW! Shuttered Venue Operators Grant (SVOG)

SVOG is a federal economic assistance program for arts organizations, administered through the Small Business Administration. If you are a theatrical producer, talent rep, venue promoter, operate a live venue, live performing arts organization, movie house, or cultural institution you may be eligible to apply.

Learn More
View the SBA Webinar
Register for our Jan 26 Webinar

REMINDER: New Mexico Safe Certified Training Programs

New Mexico businesses in all sectors are encouraged to receive training in COVID-safe practices to help ensure everyone's safety as New Mexico reopens for business and recreation.

Learn More

NEW! CARES Act Provider Relief Fund

The Provider Relief Fund supports families, workers, and the heroic healthcare providers in the battle against COVID-19. HHS is distributing $178 billion to hospitals and healthcare providers on the front lines of the coronavirus response.

Learn More

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Procurement Series
Every Thurs. at 3 pm (began on Jan. 21, runs through Feb. 25)
See series schedule and register

Save our Stages
January 26 at 11:30 am
Register

Overview of International Trade Resources
January 27 at 11:30 am
Register

2021 - Make an Impact! (Impact Investing)
January 27 at 3 pm
Register by Jan. 26

Gig Employment, Contract Work and the New Employment Models
January 28 at 3 pm
Register

USDA Webinar: FY 2021 Strategic Economic and Community Development (SECD) Funding Opportunity
February 9 at 2 pm
Register

WESST Farmington Training Conversations and Connections: Virtual Networking Meeting
February 17 at 2 pm
Register

ACE/AES Export Compliance Seminar
February 23-24
Register

EmpowHer Forum: Driving Women Empowerment Principles for Locally Women-Owned Businesses
March 5 at 9 am
Register

What Is Outdoor Recreation 1.0
March 13 at 10 am
Register

Local On Demand SCORE Webinars:

- PPP Loan Forgiveness Application Requirements
- Economic Injury Disaster Loan

N.M. Tax and Revenue New Businesses and New Employers workshops

ARTICLES/LINKS

NEW! Poetry Organization Emergency Grants

The Poetry Foundation's Emergency Grants Fund supports poetry and affiliated art organizations struggling during the COVID-19 pandemic. This fund is open to poetry organizations and organizations that use poetry as an expression of their missions. This includes organizations fighting for social justice and working to advance racial equity in poetry and affiliated art.
Deadlines: January 31 and March 31.

Learn More

NEW! NDC Accepting PPP Applications

The National Development Council's (NDC) Grow America Fund is taking applications for Paycheck Protection Program (PPP) First Draw and Second Draw Loans.

Learn More

PPP Resumed on Jan 11

1st and 2nd draw PPP loans resumed on Jan 11 with some updated rules. For application assistance, go to the NM Small Business Development Center website.

Learn More
View our Webinar

Emergency Rental Assistance Program

The Emergency Rental Assistance program makes available $25 billion to assist households that are unable to pay rent and utilities due to the COVID-19 pandemic. The funds are provided directly to states, U.S. Territories, local governments, and Indian tribes. Grantees use the funds to provide assistance to eligible households through existing or newly created rental assistance programs.

Learn More

EIDL Deadline

The U.S. Small Business Administration announced that the deadline to apply for the Economic Injury Disaster Loan (EIDL) program for the COVID-19 Pandemic disaster declaration is extended to Dec. 31, 2021.

Learn More

Restoration and Resilience COVID Recovery Fund

The Restoration and Resilience COVID Recovery Fund is providing grants to support public lands, including parks, nature areas, and other green spaces, that have been impacted by increased use during the COVID-19 pandemic. The focus is on supporting agencies and organizations responsible for maintaining public lands by distributing resources and mobilizing volunteers to help keep up with increased human presence in these delicate ecosystems. Grants of up to $2,500 will be awarded. Nonprofit organizations, state or federal government agencies, federally recognized tribes and local governments, and educational institutions are eligible to apply.
Deadlines: February 1, April 1, and June 1.

Learn More

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Eight New Mexico companies receive job training incentives in January

New Mexico Takes Leadership Role In Recreation Economy

Los Alamos Residents [New Mexico Residents] Encouraged To Give Input On Outdoor Recreation

UbiQD, BennuBio, and Mesa Photonics Receive New Mexico Incentive Grants

'Amazing variety': Santa Fe area doubles for 19th century Texas on 'News of the World'

Doña Ana County gross receipts revenue continues climb

Businesses encouraged to apply for Paycheck Protection Program loans

State money for child care available to graduate students

Biden pushes for $1.9 trillion coronavirus relief package

After Rocky Start, Opportunity Zones Could Boom In 2021

Federal Reserve Board issues Advance Notice of Proposed Rulemaking on an approach to modernize regulations that implement the Community Reinvestment Act

60,000 Paycheck Protection Program Loans Approved in First Week

Manufacturing can be the engine of global recovery – here's how

Reviewing Opportunity Zones With Steve Glickman and Ira Weinstein

TRIBAL RESOURCE: Chamiza Foundation Covid-19 Emergency Relief Fund

The Chamiza Foundation is accepting applications from Pueblo Indian organizations and organizations serving Pueblo communities in New Mexico that are responding to direct threats from COVID-19. The grant awards will range from $3,000 to $12,000. Specific areas of interest include food, medical supplies, and personal items; water; community relief and recovery needs; and internet access and connectivity. **Deadlines: February 12 and May 7.**

Learn More

Community Fund: Emergency Food Distribution

County and Tribal Managers can apply for communities in need of emergency food distribution due to COVID or a lockdown in response to COVID.

Learn More

EDD Highlighted Event:

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EDD is hosting a webinar with the Department of Cultural Affairs New Mexico Arts Division to cover the basics of the Shuttered Venue Operators Grant (SVOG), also known as the Save Our Stages (SOS) Act, a federal economic assistance program for arts organizations. The program will be administered through the Small Business Administration.

Save Our Stages Webinar
Jan. 26, 2021
11:30 a.m. - 1 p.m.

This initiative passed as part of the COVID Relief Package.If you are a theatrical producer, talent rep, venue promoter, operate a live venue, live performing arts organization, movie house, or cultural institution you may be eligible to apply for the SVOG.

In this webinar, we will discuss the latest updates to this program.

Panelists include:

- Jim Brunberg, Co-chair of NIVA's (National Independent Venue Association) Implementation Task Force
- Russell Wyrick, Director of the New Mexico Small Business Development Network

Register Now

Additional Business Resources

NEW! The NM Investor Roundtable
The NM Investor Roundtable brings together local startups to connect with local angel investors. The goal is to support startups with connections and feedback in order to potentially receive investment in their business venture. This is a private event between founders and investors. Startups must apply online for consideration.

Learn More

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NEW! Tax and Rev Redesigns CRS

The Taxation and Revenue Department is redesigning its Combined Reporting System (CRS) to create separate returns for Withholding Tax, Gross Receipts Tax, Compensating Tax and other business-related tax programs.

The project, expected to be complete in July 2021, will create forms that are tailored to the needs of taxpayers and will make it easier for taxpayers to manage their accounts. It also will increase Department automation and improve the process for taxpayers to obtain refunds.

Learn More

NEW! Next Phase of Comcast RISE Now Open

Comcast is accepting applications for the next phase of RISE. If your business qualifies, you'll have the opportunity to receive one or more of the following business services:

- Marketing and advertising consultations
- Media placements over a 90-day period
- Commercial creative production services
- Technology services from Effectv and/or Comcast Business

Deadline: February 7.

Learn More

NEW! Biorefinery, Renewable Chemical, and Biobased Product Manufacturing Assistance Program

This program provides loan guarantees up to $250 million to assist in the development, construction, and retrofitting of new and emerging technologies. These technologies are advanced biofuels, renewable chemicals, and biobased products.

Learn More

Ascent Learning Program for Women Entrepreneurs

Ascent is a first-of-its-kind, free digital e-learning platform geared to help women entrepreneurs grow and expand their businesses. Ascent has valuable content, such as tips on preparing and recovering from disasters, strategic marketing, and business financial strategy development.

Learn More

USDA Value-Added Producer Grants

The objective of this grant program is to assist viable Independent Producers, Agricultural Producer Groups, Farmer and Rancher Cooperatives, and Majority-Controlled Producer-Based Businesses in starting or expanding value-added activities related to the processing and/or marketing of Value-Added Agricultural Products. Grants will be awarded competitively for either planning or working capital projects directly related to the processing and/or marketing of value-added products. All proposals must demonstrate economic viability and sustainability to compete for funding.

Learn More

Additional Community Resources

NEW! Brighter Future Fund

The Brighter Future Fund is a statewide grant program ensuring that philanthropic funds are invested strategically in communities throughout New Mexico. The first grant round of 2021 will focus on the Northern New Mexico; future rounds in 2021 will focus on Central and Southern New Mexico. Organizations located in the following counties are eligible to apply for this round: San Juan, Rio Arriba, Taos, Colfax, Union, McKinley, Los Alamos, Santa Fe, Mora, Harding, Cibola, San Miguel, Guadalupe, and Quay. Grants will range from $5,000 - $10,000.

Learn More

NEW! Smart Cities Council's Readiness Challenge for Cities

The Readiness Challenge for Cities is aimed at helping cities prepare critical foundational components that can help drive implementation. The challenge will open to any city beginning on February 1 and will provide a range of technical assistance and peer support.

Learn More

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NEW! Workforce Pathways for Youth Grant Program

The purpose of this program is to increase alignment between workforce and OST programs (an OST organization is a non-profit that operates a supervised program that young people regularly attend when school is not in session) to expand job training and workforce pathways for youth and disconnected youth, including soft skill development, career exploration, job readiness and certification, summer jobs, year-round job opportunities, and apprenticeships. **Deadline: February 4.**

Learn More

NEW! Andrew Family Foundation

The Andrew Family Foundation seeks to partner with one or more nonprofit organizations offering creative solutions that address issues facing under-resourced communities as well as the protection and preservation of the natural environment in which they live. The Foundation seeks to support organizations focused on alleviating disparities in food access, affordable housing, high quality education, physical and psychological healthcare, and/or criminal justice. Preference will be given to organizations whose programming is intersectional, alleviating these disparities while demonstrating an interest to conserve our planet's natural resources and promote environmental sustainability. The foundation will award grant(s) of up to $600,000 to be paid over a three-year period. The annual program budget for applying organizations should be $1 million to $4 million. **Letters of inquiry are due by March 15; deadline for invited full proposals is May 1.**

Learn More

NEW! Visionary Freedom Fund

The Visionary Freedom Fund seeks to ensure that Black, Brown, and Indigenous (BIPOC) youth impacted by the youth justice system have the resources, capacity, infrastructure, and relationships they need to develop and implement inspiring long-term, visionary change in their communities. Grants ranging from $25,000 to $100,000 will support organizations where leadership is impacted by the carceral state, criminal legal system, and/or systems of criminalization. Applying organizations must have young people in decision-making leadership roles. General operating grants are provided, with an emphasis on funding for organizations that are often left out of traditional philanthropic giving. **Deadline: February 26.**

Learn More

NEW! Nature's Path: Gardens for Good

The Nature's Path Gardens for Good program supports nonprofit organizations with community garden projects. The focus is on community gardens that make fresh organic food more accessible in the local neighborhood. Grants must be used specifically for the development of an organic garden that will supply food to a nonprofit feeding agency such as a food bank, soup kitchen, emergency pantry, shelter, before- or after-school program, or other similar program. Nature's Path will award 21 grants of $5,000 each. **The application cycle will be open from February 5 to March 24** .

Learn More

NEW! Dollar General Literacy Foundation

The Dollar General Literacy Foundation supports nonprofit organizations, educational institutions, and libraries that offer literacy programs in communities served by Dollar General. The Foundation provides support through the following grant programs: Adult Literacy Grants, Family Literacy Grants, and Summer Reading Grants. **Deadline: February 18.**

Learn More

NEW! The North American Wetlands Conservation Act U.S. Standard Grants Program

The North American Wetlands Conservation Act U.S. Standard Grants Program offers matching grants to support public-private partnerships carrying out projects that further the goals of the act. Projects must involve long-term protection, restoration, enhancement, or establishment of wetland and associated upland habitats to benefit migratory birds. **Deadlines: February 26 and July 9.**

Learn More

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NEW! The Fire Prevention and Safety Grant Program

The Fire Prevention and Safety Grant Program supports fire prevention programs and firefighter health and safety research and development. Categories of support include activities designed to reach high-risk target groups and mitigate incidences of death and injuries caused by fire and fire-related hazards, and research and development activities aimed at improving firefighter safety. The program is open to fire departments; national, regional, state, local, tribal, and nonprofit organizations, such as academic institutions; public health and occupational health organizations; and injury prevention institutions. **Deadline: February 26.**

Learn More

The Albuquerque Community Foundation Grant Program

The Albuquerque Community Foundation is currently accepting applications for the 2021 Competitive Grant Program in the following fields of interest: Arts & Culture, Education, and Environmental & Historic Preservation.

Learn More

TRIBAL RESOURCE: Food Distribution Program on Indian Reservations Nutrition Education (FDPNE) Grant Program

Nutrition education should focus on how USDA Foods in the FDPIR food package may be used to contribute to a healthy diet. The Indian Tribal Organization (ITO) or State Agency (SA) shall work with appropriate organizations and partners such as: extension agents, registered dieticians, diabetes coordinators, and public health nutrition professionals to provide food and nutrition information, recipes, or cooking demonstrations for households who participate or are eligible to participate in the FDPIR program.

Learn More

Drinking Water State Revolving Loan Fund (DWSRLF)

DWSRLF finances drinking water projects through the New Mexico Finance Authority. Project Interest Forms are welcome anytime, however, to take full advantage of the DWSRLF's limited annual principal forgiveness subsidy, you must submit your Project Interest Form by **February 8**. Once you submit your Project Interest Form, a community services team member will contact you to walk you through the application process and help ensure your project qualifies for funding.

Learn More

Henry Luce Foundation Theology Program

The Henry Luce Foundation's Theology Program is inviting inquiries for collaborative, experimental, and field-shaping initiatives that enliven the practice of public scholarship on—and promote public understanding of—race, justice, and religion in America. The focus is on projects that seek to rethink understandings of religion and race in America, imagine alternative possibilities, and alter the terms of public discourse. Seminaries and divinity schools, colleges and universities, and other institutions and organizations committed to enriching public discourse on this topic are eligible to apply. Collaborative engagement across sectors and contexts—including religious, academic, media, policy, activist, and/or art communities—is particularly encouraged. Grant requests ranging from $250,000 to $750,000 will be considered. **Letters of inquiry must be submitted by February 15, invited proposals will be due June 15.**

Learn More

Bank of America Charitable Foundation

In 2021, the Foundation will issue two requests for proposals that address the following focus areas:

The Economic Mobility Focused on the Needs of Individuals and Families category provides support for workforce development, education, and basic needs. **Applications will be accepted from January 25 through February 19, 2021.**

The Economic Mobility Focused on the Needs of the Community category provides support for affordable housing, neighborhood revitalization, and small businesses. **Applications will be accepted from May 31 through June 25, 2021.**

Learn More

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Snapdragon Book Foundation

The Snapdragon Book Foundation seeks to promote children's literacy by providing support to school libraries serving disadvantaged children. Grants are awarded to public, private, and experimental preK-12 schools. Grants typically range from $2,500 to $10,000. **Deadline: February 14.**

Learn More

Opioid Affected Youth Initiative

The Opioid Affected Youth Initiative supports programs and strategies that identify, respond to, treat, and support children, youth, and families impacted by the opioid epidemic. The program seeks to develop a data-driven, coordinated response to opioid abuse-related challenges that impact youth and community safety. **Grants.gov deadline: February 8; JustGrants deadline: February 22.**

Learn More

The Terri Lynne Lokoff Teacher Awards Program

The Terri Lynne Lokoff Teacher Awards program, administered by First Up, acknowledges the critical role of childcare teachers in providing quality early care and education. Applicants must be full-time childcare teachers employed in a home, group, or center-based program for a minimum of three years and meet other eligibility guidelines. Fifty selected teachers will each receive a $1,000 grant. Of the 50 teachers, one is selected to receive the Helene Marks Award, which includes an additional $1,000 grant. **Applications must be postmarked by January 29.**

Learn More

NPS Rivers, Trails, and Conservation Assistance Program

The National Park Service is accepting applications for technical assistance to design trails and parks, conserve and improve access to rivers, protect special places, and create recreation opportunities. **Deadline: March 1.**

Learn More

YouthBuild

Grants will be awarded through a competitive process to organizations providing pre-apprenticeship services that support education, occupational skills training, and employment services to at-risk youth, ages 16 to 24, while performing meaningful work and service to their communities. Eligible applicants are public or private non-profit agencies that have previously served disadvantaged youth in a YouthBuild or other similar program. **Deadline: February 2.**

Learn More

Webinar Recordings

SBA's Paycheck Protection Program Round Two Updates (1/15/21)

Dispatches from New Mexico: Avalanche Safety Education & Resources (12/17/20)

EDD Miniseries for Business Owners of Color Business Resources (12/11/20)

SBA Surety Bond Program Overview (12/10/20)

Southwestern New Mexico Business Finance Fair (12/9/20)

Overview Small Business CARES Relief Grant Program (12/3/20)

To see a full list of upcoming webinars and links to more previously recorded webinars:
EDD Finance Dept Webinars and Other COVID-19 Resources
NM MainStreet Webinars and Other COVID-19 Resources

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Email your suggestions to our editor.

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If you would like to stop receiving these weekly updates, but still receive other correspondence from the New Mexico Economic Development Department, please send an email, asking to opt out, by clicking here. If you prefer to unsubscribe from all emails, click on the unsubscribe option below.

The New Mexico Economic Development Department's mission is to improve the lives of New Mexico families by increasing economic opportunities and providing a place for businesses to thrive.

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About our service provider

Sent by edd.info@state.nm.us

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From: Monica Steeby <m.steeby@ocedc.com>
Sent: Friday, January 08, 2021 2:39 PM EST
To: undisclosed-recipients:
Subject: Fwd: EDD Resource Wrap Up

Hello,

Please see the newest edition of NM EDD's Weekly Resource Round-up for the new year.

Have a great weekend!

Monica

Gov. Michelle Lujan Grisham
Cabinet Secretary Alicia J. Keyes
Deputy Secretary Jon Clark

NEW MEXICO ECONOMIC DEVELOPMENT DEPARTMENT

WEEKLY RESOURCE WRAP-UP

January 8, 2021

Visit our website | **View past newsletters** | **Join our email list**

UPCOMING WEBINARS AND EVENTS

Importing/Exporting Overview
January 20 at 11:30 am
Register

WESST Farmington Training Conversations and Connections: Virtual Networking Meeting
February 17 at 2 pm
Register

Local On Demand SCORE Webinars:

- PPP Loan Forgiveness Application Requirements
- Economic Injury Disaster Loan

ARTICLES/LINKS

COVID-19 Recovery Resources

NEW! Second Round of Stimulus Checks Distributed

Eligible recipients will receive up to $600 for individuals, $1,200 for married couples, and $600 for each qualifying child.

Learn More

NEW! EIDL Deadline

The U.S. Small Business Administration announced that the deadline to apply for the Economic Injury Disaster Loan (EIDL) program for the COVID-19 Pandemic disaster declaration is extended to Dec. 31, 2021.

Learn More

NEW! Fifth COVID-19 Relief Bill Enacted

The package includes about $900 billion in additional COVID-19 relief, a yearend omnibus appropriations package, and a variety of other legislation.

Learn More

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EDD Sets Groundwork For Economic Recovery Across State

EDD Announces Call for RFPs

SpinLaunch expands New Mexico test site

One-on-One with Axie Navas

Another Round of PPP Loans Approved by Congress, With Yet Additional Changes to the Program

Expanding Educational Opportunity Through School Choice

CPD Memo: Availability of Additional Waivers for CPD Grant Programs to Prevent the Spread of COVID-19 and Mitigate Economic Impacts Caused by COVID-19 (Issued December 30, 2020)

WCB Seeks Comment on Emergency Broadband Connectivity Fund Assistance

Unemployment Insurance Program Letter No. 09-21

Minority-Owned Companies Waited Months for Loans, Data Shows

Economic development work continues – even in 2020

About half of applicants get New Mexico virus relief grants

State approves 6,500 small business grants

UPDATE! The Small Business CARES Relief Grant application is now closed

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Alamogordo, NM 88310
(575) 439-3688 (Office)
(575) 430-1855 (Cell)
m.steeby@ocedc.com
www.ocedc.com



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From: Monica Steeby <m.steeby@ocedc.com>
Sent: Friday, January 08, 2021 2:39 PM EST
To: undisclosed-recipients:
Subject: Fwd: EDD Resource Wrap Up

Hello,

Please see the newest edition of NM EDD's Weekly Resource Round-up for the new year.

Have a great weekend!

Monica

Gov. Michelle Lujan Grisham
Cabinet Secretary Alicia J. Keyes
Deputy Secretary Jon Clark

NEW MEXICO ECONOMIC DEVELOPMENT DEPARTMENT

WEEKLY RESOURCE WRAP-UP

January 8, 2021

Visit our website | **View past newsletters** | **Join our email list**

UPCOMING WEBINARS AND EVENTS

Importing/Exporting Overview
January 20 at 11:30 am
Register

WESST Farmington Training Conversations and Connections: Virtual Networking Meeting
February 17 at 2 pm
Register

Local On Demand SCORE Webinars:

- PPP Loan Forgiveness Application Requirements
- Economic Injury Disaster Loan

ARTICLES/LINKS

COVID-19 Recovery Resources

NEW! Second Round of Stimulus Checks Distributed

Eligible recipients will receive up to $600 for individuals, $1,200 for married couples, and $600 for each qualifying child.

Learn More

NEW! EIDL Deadline

The U.S. Small Business Administration announced that the deadline to apply for the Economic Injury Disaster Loan (EIDL) program for the COVID-19 Pandemic disaster declaration is extended to Dec. 31, 2021.

Learn More

NEW! Fifth COVID-19 Relief Bill Enacted

The package includes about $900 billion in additional COVID-19 relief, a yearend omnibus appropriations package, and a variety of other legislation.

Learn More

AMERICAN OVERSIGHT

EDD Sets Groundwork For Economic Recovery Across State

EDD Announces Call for RFPs

SpinLaunch expands New Mexico test site

One-on-One with Axie Navas

Another Round of PPP Loans Approved by Congress, With Yet Additional Changes to the Program

Expanding Educational Opportunity Through School Choice

CPD Memo: Availability of Additional Waivers for CPD Grant Programs to Prevent the Spread of COVID-19 and Mitigate Economic Impacts Caused by COVID-19 (Issued December 30, 2020)

WCB Seeks Comment on Emergency Broadband Connectivity Fund Assistance

Unemployment Insurance Program Letter No. 09-21

Minority-Owned Companies Waited Months for Loans, Data Shows

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The New Mexico Economic Development Department's mission is to improve the lives of New Mexico families by increasing economic opportunities and providing a place for businesses to thrive.

GoNM.biz

New Mexico Economic Development Department | 1100 South St. Francis Dr. , Joseph M. Montoya Building, Santa Fe, NM 87505-4147

Unsubscribe m.steeby@ocedc.com

About our service provider

Sent by edd.info@state.nm.us

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Alamogordo, NM 88310
(575) 439-3688 (Office)
(575) 430-1855 (Cell)
m.steeby@ocedc.com
www.ocedc.com



AMERICAN OVERSIGHT

From: Naomi Christensen <ngchris@windstream.net>
Sent: Friday, January 08, 2021 9:17 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Going to DC again?

Dear Couy,

I heard that you were in DC and saw what happened there and that you have been investigated by the (absent) FBI for something you said.

How ironic that the FBI is involved now with someone that hasn't committed any crime and probably misinterpreted your words. But the FBI have been AWOL with the fraud that occurred in the election.

I applaud your heroism in going to support Preseident Trump and if you are planning to go to the inauguration of the "ilegitimate president" Burden, I would like to accompany you or anyone else that you know might be going. I would have liked to go but the logistics were a problem for me. I want to support the President and let the Burden know that he is NOT my president.

Thanks for your time and attention.

An old ex-GOP woman in Rio Arriba County whose Dad and Granddad were ranchers in Northern NM.

Naomi Christensen

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AMERICAN OVERSIGHT

From: Joy and Other Things <simdrew99@gmail.com>
Sent: Thursday, January 14, 2021 7:11 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: I don't recommend it

Dude the DHS is gonna be on your ass if you try to go up to DC with *two* guns like you said you would. I'm just a concerned citizen but i really think you should probably reconsider if you want to be associated with what is going to happen at the capital on the 20th. If you can spare the time i'd recommend taking a step back from everything and really *really* critically thinking about what you're going to do. If the trump boat does end up sinking (which looks probable) you will be caught on the titanic wave of backlash. I can all but guarantee that more reasonable republicans will back away from his form of crass policy after the recent election results. Although I'm just a citizen even i understand that the optics of your decisions will be poor if you go to DC. The only reason i am trying to break through to you is that your response to a more divided government during the Otero County Special Meeting on January 14th was quite appropriate to Mr.Lee's remarks.

Please reconsider.

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AMERICAN OVERSIGHT

From: Paul Akmajian <akmajian@gmail.com>
Sent: Friday, January 08, 2021 6:19 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: In remembrance

Hey Couy,

Just curious, will you also be attending the funeral for Brian Sicknick, the Capitol Police officer (and by the way, a supporter of Pres. Trump), who WAS BEATEN TO DEATH WITH A FIRE EXTINGUISHER by the disgusting pro-Trump thugs who assaulted the capitol?=

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AMERICAN OVERSIGHT

From: Marylin Morgan <mormar2014@gmail.com>
Sent: Sunday, January 10, 2021 12:40 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Insurrection

You have dishonored this country and democracy. Your behavior and further comments Wednesday are despicable. You are not a patriot, you are a hoodlum. You need to resign immediately.

Marylin Morgan
Santa Fe =

AMERICAN OVERSIGHT

From: Robbie Everage <Robbie.Everage@j2medicalsupply.com>
Sent: Sunday, January 10, 2021 11:55 AM EST
To: Robbie Everage <Robbie.Everage@j2medicalsupply.com>
Subject: J2 Medical Supply | PPE Partner
Attachment(s): "J2MS_PRODUCTS_12.28_Robbie.Everage@j2medicalsupply.com.pdf"

Good Afternoon,

I hope this message finds you well. I am pleased to share with you that J2 Medical Supply now offers **FREE warehousing and fulfillment** to help streamline the PPE procurement process. Additionally, we have added **2XL and 3XL Isolation gowns**.

I have attached my Product Catalog for your review, or you can view it at: https://www.linkedin.com/in/reverage/detail/recent-activity/documents/. J2 Medical is registered with SAM.

If you are experiencing supply chain issues and need an additional source of PPE, I hope you will consider reaching ou

We are very grateful for all of your hard work during this most difficult time to keep our communities safe.

Thank you for all you dcand Happy New Year!
Robbie



J2 | MEDICAL SUPPLY
Robbie Everage | Territory Manager
480.266.4224 - cell | 505.898.8879 - office
robbie.everage@j2medicalsupply.com
Learn More |Buy PPE Now
Connect with me on LinkedIn

AMERICAN OVERSIGHT

J2 | MEDICAL SUPPLY

PRODUCTS

Proven. Reliable. With more than 30 years in manufacturing, distribution and logistics experience, J2 Medical Supply is an intelligent choice for small and large quantity clients interested in a proven and reliable PPE supply chain.



FREE SHIPPING & HANDLING
ON ALL ORDERS (IN CONTINENTAL U.S.)

FDA

SAM
SYSTEM FOR AWARD MANAGEMENT

E-Verify

MADE IN CALIFORNIA

100% AMERICAN OWNED

AMERICAN OVERSIGHT

NM-OTERO-21-0275-A-000757

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AMERICAN OVERSIGHT

As of 12.28.2020

CLIENT TESTIMONIALS

Henry Mayo Newhall Hospital

"Reliable and timely vendor that delivered quality PPE when we needed it most."

SONY PICTURES

"Responsive, solution-oriented partner that helped us find solutions for our PPE needs."

STIFEL

"Our customized masks were outstanding. Well-received by our employees and clients."

The ORTHOPEDIC CENTER OF ST. LOUIS

"Prompt, professional and delivered ahead of schedule. Will certainly use J2MS again."



Face Shields

SKU #: J2FSMG01B
Box/Case Count: 12 units per pack/ 20 packs per case/ 240 units per case
Delivery: Quoted Upon Request

- Anti-Fog Protection
- Foam for forehead
- 7mm polyester film
- Elastic band
- Full Length
- Can be worn with or without glasses
- Latex free
- 7.2oz

J2 | MEDICAL SUPPLY
FACE SHIELDS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)

As of 12.28.2020

AMERICAN OVERSIGHT

TO ORDER, EMAIL: Robbie.Everage@j2medicalsupply.com **OR CALL:** 480.266.4224

J2 MEDICAL SUPPLY
MASKS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)



N95 Respirator Masks, AOK Tooling Limited, 3D Mask

SKU #: J2N95RM4B
Box/Case Count: 10 units per box/ 20 boxes per case/ 200 units per case
Delivery: Quoted Upon Request

- 95% particle filtration efficiency
- 99.9% bacterial and viral efficiency
- Polyester straps and adjustable nose clip
- Straps – Polyester Elastic Cord
- Meltblown Nonwoven Polypropylene Filter
- Size - Standard

Listed on CDC NIOSH approved N95 Particulate Filter Face Piece Respirator List - Approval No. 84A-8449



N95 Respirator Masks, Makrite 9500

SKU #1: J2N95RM7B (Standard) **SKU #2:** J2N95RM6B (Small)
Box/Case Count: 20 units per box/ 12 boxes per case/ 240 units per case
Delivery: Quoted Upon Request

- NIOSH approved N95 Rating
- This N95 is FDA approved as surgical mask
- 4 layers design
- Adjustable nose clip significantly reduces air penetration
- Ultrasonically welded ear loops stay firmly attached
- Comfortable urethane foam nose-piece to reduce leakage
- Sizes - Standard and Small

Listed on CDC NIOSH approved N95 Particulate Filter Face Piece Respirator List - Approval No. 84A-5411 *(Standard)*

Listed on CDC NIOSH approved N95 Particulate Filter Face Piece Respirator List - Approval No. 84A-5463 *(Small)*

As of 12.28.2020

AMERICAN OVERSIGHT

J2 MEDICAL SUPPLY
MASKS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)

N95 Respirator Masks, AOK Tooling Limited, V-Fold



SKU #1: J2N95RM3B (LG) **SKU #2:** J2N95RM5B (MD)
Box/Case Count: 10 units per box/ 30 boxes per case/ 300 units per case
Delivery: Quoted Upon Request

- NIOSH approved N95 Rating
- FDA EUA Class 2 Listed
- Silicon sealed for better protection
- Ultrasonically welded adjustable headbands
- Adjustable Nose Clip
- Flat-fold easy carry and easy store
- Meltblown Nonwoven Polypropylene Filter
- Size - Large and Medium

Listed on CDC NIOSH approved N95 Particulate Filter Face Piece Respirator List - Approval No. 84A-8131

KN95 Respirator Masks, Civil Grade



SKU #: J2KN95CGB
Box/Case Count: 50 units per box/ 24 boxes per case/ 1,200 units per case
Delivery: Quoted Upon Request

- 95% filtration of very small (0.3 micron) airborne particles
- 5-Layer Protection (high quality nonwoven fabric, hot air cotton and melt-blown fabric)
- Adjustable and metal nose clip
- 3D foldable design
- 3D foldable design
- Elastic ear-loop, soft fabric
- Size - One Size Fits Most

As of 12.28.2020

AMERICAN OVERSIGHT

J2 MEDICAL SUPPLY

MASKS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)



3-Ply Surgical Masks, ASTM Level 3 - *(With ties)*

SKU #: J23PSM01B
Box/Case Count: 100 units per box/ 10 boxes per case/ 1,000 units per case
Delivery: Quoted Upon Request

- Fluid resistant @ 160 mm Hg
- <5.0 mm H20/cm2 differential pressure
- >98% bacterial filtration efficient
- >98% sub-micron particulates filtration efficient
- Class 1 -normal flammability
- Product Color: Blue
- Sterile



3-Ply Face Masks, ASTM Level 3

SKU #: J23PL3ELB
Box/Case Count: 50 units per box/ 40 boxes per case/ 2,000 units per case
Delivery: Quoted Upon Request

- Fluid resistant @ 160 mm Hg
- <6.0 mm H20/cm2 differential pressure
- >98% bacterial filtration efficient
- >98% sub-micron particulates filtration efficient
- Class 1 -normal flammability
- Product Color: Blue

AMERICAN OVERSIGHT

As of 12.28.2020

3-Ply Face Masks, Child Size, ASTM Level 3

J2 MEDICAL SUPPLY
MASKS



SKU #: J23PCSMKB
Box/Case Count: 50 units per box/ 40 boxes per case/ 2,000 units per case
Delivery: Quoted Upon Request

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)

- 160 mm Hg
- <6.0 H20/cm2 differential pressure
- ≥ 98% bacterial filtration efficient
- ≥98% sub-micron particulates filtration efficient
- Class 1 -normal flammability
- Product Color: Blue

AMERICAN OVERSIGHT

As of 12.28.2020

J2 MEDICAL SUPPLY

MASKS

Premium Custom Reusable Protective Masks - (*With ties*)



SKU #: J2PCRMSKE
Box/Case Count: Minimum Order 100 - 250 units per case
Delivery: Quoted Upon Request

MADE IN USA

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)

- Made in USA
- 4-Part Contoured facial structure
- Adjustable ties for maximum fit and comfort
- 150+ Washes w/ Zero degradation
- 2-ply filtration inner layer
- Poly spandex interior
- Machine Washable
- Full Color Sublimated Design
- Performance wicking polyester outer shell

Standard Custom Reusable Protective Masks - (*With earloops*)



SKU #: J2SCRMSKE
Box/Case Count: Minimum Order 100 - 250 units per case
Delivery: Quoted Upon Request

MADE IN USA

- Made in USA
- 1 Piece Structure
- Elastic ear loops
- 150+ Washes w/ Zero degradation
- 2-ply filtration inner layer
- Poly spandex interior
- Full Color Sublimated Design
- Machine Washable
- Performance wicking polyester outer shell

AMERICAN OVERSIGHT

As of 12.28.2020

J2 MEDICAL SUPPLY
MASKS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)



Custom Protective Single Ply Gaiters

SKU #1: J2CPGTSME - (SM/MD)
SKU #2: J2CPGTLXE - (LG/XL)
Box/Case Count: 50 units per box/ 250 units per case
Delivery: Quoted Upon Request

MADE IN USA

- Made in USA
- Single Ply Structure
- Performance wicking poly-spandex
- Contoured facial structure
- Easy-breathable fit
- Minimum Order 100



Custom Protective 2 Ply Gaiters

SKU #1: J2C2PGSME - (SM/MD)
SKU #2: J2C2PGLXE - (LG/XL)
Box/Case Count: 50 units per box/ 250 units per case
Delivery: Quoted Upon Request

MADE IN USA

- Made in USA
- 2 Ply Structure
- Performance wicking poly-spandex outer shell
- Easy breathe Poly-spandex interior
- Contoured facial structure
- Minimum Order 100

As of 12.28.2020

AMERICAN OVERSIGHT

J2 MEDICAL SUPPLY

GOWNS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)

AAMI Level 2 Disposable Isolation Gowns - *("Valencia") Manufactured by J2 Medical Supply*



SKU #1: J2IG2VSMC (SM/MD)
SKU #2: J2IG2VLXC (LG/XL)
SKU #3: J2IG2V2XC (2X) add $1.00
SKU #4: J2IG2V3XC (3X) add $1.50
Box/Case Count: 80 units per case
Delivery: Quoted Upon Request

MADE IN USA

- Over the head with thumb loop
- Functionally designed for easy donning and removal
- Available in four sizes - SM/MD, LG/XL, 2X add $1.00, and 3X add $1.50
- 70g Spunlace nonwoven
- Berry Compliant
- Superior comfort while providing protection from light to moderate fluid exposure
- Product Color: Blue

AAMI Level 2 Disposable Isolation Gowns - *("Valencia II") Manufactured by J2 Medical Supply*



SKU #1: J2IG2V2SC (SM/MD)
SKU #2: J2IG2V2LC (LG/XL)
Box/Case Count: 100 units per case
Delivery: Quoted Upon Request

- Over the head with thumb loop
- Perforated back for easy removal
- Functionally designed for easy donning and removal
- Available in two sizes - SM/MD and LG/XL
- SMS Nonwoven - 35gsm
- Superior comfort while providing protection from light to moderate fluid exposure
- Product Color: Blue

As of 12.28.2020

AMERICAN OVERSIGHT

J2 MEDICAL SUPPLY

GOWNS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)

AAMI Level 2 Disposable Isolation Gowns - *("Sunshine") Manufactured by J2 Medical Supply*



SKU #1: J2IG2SSMC (SM/MD)
SKU #2: J2IG2SLXC (LG/XL)
Box/Case Count: 100 units per case
Delivery: Quoted Upon Request

- Over the head with thumb loop
- Perforated back for easy removal
- Functionally designed for easy donning and removal
- Available in two sizes - SM/MD and LG/XL
- 35g SMS nonwoven
- Superior comfort while providing protection from light to moderate fluid exposure
- Product Color: Yellow

AAMI Level 2 Disposable Isolation Gowns - *("Ocean")*



SKU #: J2IG2OCNC
Box/Case Count: 100 units per case
Delivery: Quoted Upon Request

- Single layer polyethylene
- Reliable protection from transfer of microorganisms and body fluids
- Over the head with thumb loop
- Perforated back for easy removal
- Waist and neck tie closures
- Lightweight, breathable and comfortable
- Latex Free
- Sizes - One Size Fits Most
- Product Color: Blue

As of 12.28.2020

AMERICAN OVERSIGHT

J2 MEDICAL SUPPLY
GOWNS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)

AAMI Level 3 Disposable Isolation Gowns - *("Valencia III") Manufactured by J2 Medical Supply*



SKU #1: J2IGV3SMC (SM/MD)
SKU #2: J2IGV3LXC (LG/XL)
SKU #3: : J2IGV32XC (2X) add $1.00
SKU #4: J2IGV33XC (3X) add $1.50
Box/Case Count: 80 units per case
Delivery: Quoted Upon Request

MADE IN USA

- Over the head with thumb loop
- Functionally designed for easy donning and removal
- Available in four sizes - SM/MD, LG/XL, 2X add $1.00, and 3X add $1.50
- SMS - 44 GSM
- Berry Compliant
- Provides protection from light to moderate fluid exposure
- Product Color: Blue

AAMI Level 3 Disposable Isolation Gowns - *("New York")*



SKU #: J2IG3SSMC
Box/Case Count: 100 units per case
Delivery: Quoted Upon Request

- Full back coverage
- Elastic on the wrist for comfortable fit
- 50gsm Polypropylene Non-woven
- Provides comfort while providing protection from moderate to high fluid exposure
- Sizes - One Size Fits Most
- Product Color: Blue

As of 12.28.2020

AMERICAN OVERSIGHT

J2 MEDICAL SUPPLY

GLOVES

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)



Nitrile Examination Gloves

SKU #1: J2NG4MSMB
SKU #2: J2NG4MMDB
SKU #3: J2NG4MLGB
SKU #4: J2NG4MXLB
Box/Case Count: 100 units per box/ 10 boxes per case/ 1,000 units per case
Delivery: Quoted Upon Request

- ASTM D6319
- Latex Free/Powder Free
- Sizes - Small, Medium, Large & Extra Large
- Product Color: Blue
- 510 K approved
- Must be ordered in increments of 10 boxes



Vinyl Examination Gloves

SKU #1: J2VG4MSMB
SKU #2: J2VG4MMDB
SKU #3: J2VG4MLGB
SKU #4: J2VG4MXLB
Box/Case Count: 100 units per box/ 10 boxes per case/ 1,000 units per case
Delivery: Quoted Upon Request

- ASTM D5250
- Latex Free/Powder Free
- Sizes - Small, Medium, Large & Extra Large
- Product Color: Clear
- 510 K approved
- Must be ordered in increments of 10 boxes

AMERICAN OVERSIGHT

As of 12.28.2020

J2 MEDICAL SUPPLY

BOUFFANT HEAD COVERS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)



Bouffant Head Covers - *Manufactured by J2 Medical Supply*

MADE IN USA

SKU #: J2BHCUS1B
Box/Case Count: 50 units per pack/ 10 packs per case/ 500 units per case
Delivery: Quoted Upon Request

- Elastic band provides comfort and keeps cap in place on the forehead
- Made in USA
- Available in blue
- Comfortable lightweight 70g spunlace nonwoven fabric
- Sizes - One Size Fits Most- Will comfortably accommodate 28"



Bouffant Head Covers - *(Imported)*

SKU #: J2BHCCN1B
Box/Case Count: 100 units per pack/ 10 packs per case/ 1,000 units per case
Delivery: Quoted Upon Request

- Elastic band provides comfort and keeps cap in place on the forehead
- Available in blue
- Comfortable lightweight 50g SMS nonwoven fabric
- Sizes - One Size Fits Most- Will comfortably accommodate 28"

As of 12.28.2020

AMERICAN OVERSIGHT

J2 MEDICAL SUPPLY

SHOE COVERS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)



Shoe Covers

MADE IN USA

SKU #: J2SCUS01B
Box/Case Count: 50 units per pack/ 10 packs per case/ 500 units per case
Delivery: Quoted Upon Request

- Nonskid, slip-on shoe covers
- Available in blue
- Spunlace fabric
- Helps protects shoes from spills and splashes
- Made in USA
- Sizes - One Size Fits Most



Shoe Covers - *(Imported)*

SKU #: J2SCCN01B
Box/Case Count: 100 units per pack/ 10 packs per case/ 1,000 units per case
Delivery: Quoted Upon Request

- Nonskid, slip-on shoe covers
- Available in blue
- SMS fabric
- Helps protects shoes from spills and splashes
- Sizes - One Size Fits Most

AMERICAN OVERSIGHT

As of 12.28.2020

J2 MEDICAL SUPPLY

HAND SANITIZERS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)



Hand Sanitizer - 10oz

SKU #: J2HS10OZC
Box/Case Count: 48 units per case
Delivery: Quoted Upon Request

- 75% Ethyl Alcohol
- Kills 99.9% of germs
- Unscented
- Rinse Free Gel
- Ingredients: Alcohol, acrylic polymer, glycerin, triethanolamine, water



Hand Sanitizer - 2oz

SKU #: J2HS02OZC
Box/Case Count: 200 units per case
Delivery: Quoted Upon Request

- 75% Ethyl Alcohol
- Kills 99.9% of germs
- Unscented
- Rinse Free Gel
- Ingredients: Alcohol, acrylic polymer, glycerin, triethanolamine, water

As of 12.28.2020

AMERICAN OVERSIGHT



Touchless Key Tools

SKU #: J2TKT0BSB
Box/Case Count: 10-pack (5 silver and 5 black)
Delivery: Quoted Upon Request

- Touch-free hygienic door opener
- Effective stylus that reduces direct contact with most touchscreens
- Convenient key ring
- Durable and sturdy anti-microbial properties
- Available in silver and black
- High quantities

J2 MEDICAL SUPPLY

TOUCHLESS KEY TOOLS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)

AMERICAN OVERSIGHT

As of 12.28.2020

J2 | MEDICAL SUPPLY

Warehousing and Fulfillment



FREE FOR ALL PRODUCTS PURCHASED FROM J2 MEDICAL SUPPLY!

FREE SHIPPING & HANDLING
TO ONE LOCATION (IN CONTINENTAL U.S.)

DROP-SHIPPING CAPABILITY
TO MULTIPLE LOCATIONS (ADDITIONAL FEES APPLY)

AMERICAN OVERSIGHT

TO ORDER, EMAIL: Robbie.Everage@j2medicalsupply.com **OR CALL:** 480.266.4224

Product Quantity Per Pallet

SKU #	Product	Quantity Per Pallet
J2FSMG01B	Face Shields	30 Packs
J2N95RM4B	N95 Respirator Masks, AOK Tooling Limited, 3D Mask	640 Boxes
J2N95RM7B (Standard)	N95 Respirator Masks, Makrite 9500 - (SD)	600 Boxes
J2N95RM6B (Small)	N95 Respirator Masks, Makrite 9500 - (SM)	600 Boxes
J2N95RM3B (LG)	N95 Respirator Masks, AOK Tooling Limited, V-Fold - (LG)	780 Boxes
J2N95RM5B (MD)	N95 Respirator Masks, AOK Tooling Limited, V-Fold - (MD)	780 Boxes
J2KN95CGB	KN95 Respirator Masks, Civil Grade	288 Boxes
J2KN95CGB	3-Ply Surgical Masks, ASTM Level 3 - (With ties)	240 Boxes
J23PL3ELB	3-Ply Face Masks, ASTM Level 3	1,200 Boxes
J23PCSMKB	3-Ply Face Masks, Child Size, ASTM Level 3	1,200 Boxes
J2PCRMSKE	Premium Custom Reusable Protective Masks - (With ties)	TBA
J2SCRMSKE	Standard Custom Reusable Protective Masks	TBA
J2CPGTSME - (SM/MD)	Custom Protective Single Ply Gaiters - (SM/MD)	TBA
J2CPGTLXE - (LG/XL)	Custom Protective Single Ply Gaiters - (LG/XL)	TBA
J2C2PGSME - (SM/MD)	Custom Protective 2 Ply Gaiters - (SM/MD)	TBA
J2C2PGLXE - (LG/XL)	Custom Protective 2 Ply Gaiters - (LG/XL)	TBA
J2IG2VSMC (SM/MD)	AAMI Level 2 Disposable Isolation Gowns - ("Valencia") - (SM/MD)	25 Boxes
J2IG2VLXC (LG/XL)	AAMI Level 2 Disposable Isolation Gowns - ("Valencia") - (LG/XL)	25 Boxes
J2IG2V2XC (2X)	AAMI Level 2 Disposable Isolation Gowns - ("Valencia") - (2X)	25 Boxes
J2IG2V3XC (3X)	AAMI Level 2 Disposable Isolation Gowns - ("Valencia") - (3X)	25 Boxes
J2IG2V2SC (SM/MD)	AAMI Level 2 Disposable Isolation Gowns - ("Valencia II") - (SM/MD)	30 Cases
J2IG2V2LC (LG/XL)	AAMI Level 2 Disposable Isolation Gowns - ("Valencia II") - (LG/XL)	30 Cases
J2IG2SSMC (SM/MD)	AAMI Level 2 Disposable Isolation Gowns - ("Sunshine") - (SM/MD)	30 Cases
J2IG2SLXC (LG/XL)	AAMI Level 2 Disposable Isolation Gowns - ("Sunshine") - (LG/XL)	30 Cases
J2IG2SLXC (LG/XL)	AAMI Level 2 Disposable Isolation Gowns - ("Ocean")	24 Cases

SKU #	Product	Quantity Per Pallet
J2IG3SSMC	AAMI Level 3 Disposable Isolation Gowns - ("New York")	30 Cases
J2NG4MSMB (Small)	Nitrile Examination Gloves (SM)	105 Boxes
J2NG4MMDB (Medium)	Nitrile Examination Gloves (MD)	105 Boxes
J2NG4MLGB (Large)	Nitrile Examination Gloves (LG)	105 Boxes
J2NG4MXLB (XL)	Nitrile Examination Gloves (XL)	105 Boxes
J2VG4MSMB (Small)	Vinyl Examination Gloves (SM)	98 Boxes
J2VG4MMDB (Medium)	Vinyl Examination Gloves (MD)	98 Boxes
J2VG4MLGB (Large)	Vinyl Examination Gloves (LG)	98 Boxes
J2VG4MXLB (XL)	Vinyl Examination Gloves (XL)	98 Boxes
J2BHCUS1B	Bouffant Head Covers	25 Boxes
J2BHCCN1B	Bouffant Head Covers - (Imported)	300 Boxes
J2SCUS01B	Shoe Covers	25 Boxes
J2SCCN01B	Shoe Covers - (Imported)	300 Boxes
J2HS10OZC	Hand Sanitizer - 10oz	36 Cases
J2HS02OZC	Hand Sanitizer - 2oz	45 Cases
J2TKT0BSB	Touchless Key Tools	30 Boxes



AMERICAN OVERSIGHT

J2 | MEDICAL SUPPLY

PRODUCTS

Proven. Reliable. With more than 30 years in manufacturing, distribution and logistics experience, J2 Medical Supply is an intelligent choice for small and large quantity clients interested in a proven and reliable PPE supply chain.



FREE SHIPPING & HANDLING
ON ALL ORDERS (IN CONTINENTAL U.S.)

FDA

SAM SYSTEM FOR AWARD MANAGEMENT

E-Verify

MADE IN CALIFORNIA

100% AMERICAN OWNED

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NM-OTERO-21-0275-A-000776

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TOUCHLESS KEY TOOLS

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As of 12.28.2020

CLIENT TESTIMONIALS

Henry Mayo Newhall Hospital

"Reliable and timely vendor that delivered quality PPE when we needed it most."

SONY PICTURES

"Responsive, solution-oriented partner that helped us find solutions for our PPE needs."

STIFEL

"Our customized masks were outstanding. Well-received by our employees and clients."

The ORTHOPEDIC CENTER OF ST. LOUIS

"Prompt, professional and delivered ahead of schedule. Will certainly use J2MS again."



Face Shields

SKU #: J2FSMG01B
Box/Case Count: 12 units per pack/ 20 packs per case/ 240 units per case
Delivery: Quoted Upon Request

- Anti-Fog Protection
- Foam for forehead
- 7mm polyester film
- Elastic band
- Full Length
- Can be worn with or without glasses
- Latex free
- 7.2oz

J2 | MEDICAL SUPPLY
FACE SHIELDS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)

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J2 MEDICAL SUPPLY
MASKS

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N95 Respirator Masks, AOK Tooling Limited, 3D Mask

SKU #: J2N95RM4B
Box/Case Count: 10 units per box/ 20 boxes per case/ 200 units per case
Delivery: Quoted Upon Request

- 95% particle filtration efficiency
- 99.9% bacterial and viral efficiency
- Polyester straps and adjustable nose clip
- Straps – Polyester Elastic Cord
- Meltblown Nonwoven Polypropylene Filter
- Size - Standard

Listed on CDC NIOSH approved N95 Particulate Filter Face Piece Respirator List - Approval No. 84A-8449



N95 Respirator Masks, Makrite 9500

SKU #1: J2N95RM7B (Standard) **SKU #2:** J2N95RM6B (Small)
Box/Case Count: 20 units per box/ 12 boxes per case/ 240 units per case
Delivery: Quoted Upon Request

- NIOSH approved N95 Rating
- This N95 is FDA approved as surgical mask
- 4 layers design
- Adjustable nose clip significantly reduces air penetration
- Ultrasonically welded ear loops stay firmly attached
- Comfortable urethane foam nose-piece to reduce leakage
- Sizes - Standard and Small

Listed on CDC NIOSH approved N95 Particulate Filter Face Piece Respirator List - Approval No. 84A-5411 *(Standard)*

Listed on CDC NIOSH approved N95 Particulate Filter Face Piece Respirator List - Approval No. 84A-5463 *(Small)*

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J2 MEDICAL SUPPLY

MASKS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)

N95 Respirator Masks, AOK Tooling Limited, V-Fold



SKU #1: J2N95RM3B (LG) **SKU #2:** J2N95RM5B (MD)
Box/Case Count: 10 units per box/ 30 boxes per case/ 300 units per case
Delivery: Quoted Upon Request

- NIOSH approved N95 Rating
- FDA EUA Class 2 Listed
- Silicon sealed for better protection
- Ultrasonically welded adjustable headbands
- Adjustable Nose Clip
- Flat-fold easy carry and easy store
- Meltblown Nonwoven Polypropylene Filter
- Size - Large and Medium

Listed on CDC NIOSH approved N95 Particulate Filter Face Piece Respirator List - Approval No. 84A-8131

KN95 Respirator Masks, Civil Grade



SKU #: J2KN95CGB
Box/Case Count: 50 units per box/ 24 boxes per case/ 1,200 units per case
Delivery: Quoted Upon Request

- 95% filtration of very small (0.3 micron) airborne particles
- 5-Layer Protection (high quality nonwoven fabric, hot air cotton and melt-blown fabric)
- Adjustable and metal nose clip
- 3D foldable design
- 3D foldable design
- Elastic ear-loop, soft fabric
- Size - One Size Fits Most

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MASKS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)



3-Ply Surgical Masks, ASTM Level 3 - *(With ties)*

SKU #: J23PSM01B
Box/Case Count: 100 units per box/ 10 boxes per case/ 1,000 units per case
Delivery: Quoted Upon Request

- Fluid resistant @ 160 mm Hg
- <5.0 mm H20/cm2 differential pressure
- >98% bacterial filtration efficient
- >98% sub-micron particulates filtration efficient
- Class 1 -normal flammability
- Product Color: Blue
- Sterile



3-Ply Face Masks, ASTM Level 3

SKU #: J23PL3ELB
Box/Case Count: 50 units per box/ 40 boxes per case/ 2,000 units per case
Delivery: Quoted Upon Request

- Fluid resistant @ 160 mm Hg
- <6.0 mm H20/cm2 differential pressure
- >98% bacterial filtration efficient
- >98% sub-micron particulates filtration efficient
- Class 1 -normal flammability
- Product Color: Blue

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3-Ply Face Masks, Child Size, ASTM Level 3

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MASKS



SKU #: J23PCSMKB
Box/Case Count: 50 units per box/ 40 boxes per case/ 2,000 units per case
Delivery: Quoted Upon Request

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)

- 160 mm Hg
- <6.0 H20/cm2 differential pressure
- ≥ 98% bacterial filtration efficient
- ≥98% sub-micron particulates filtration efficient
- Class 1 -normal flammability
- Product Color: Blue

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As of 12.28.2020

J2 MEDICAL SUPPLY

MASKS

Premium Custom Reusable Protective Masks - (*With ties*)



SKU #: J2PCRMSKE
Box/Case Count: Minimum Order 100 - 250 units per case
Delivery: Quoted Upon Request

MADE IN USA

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)

- Made in USA
- 4-Part Contoured facial structure
- Adjustable ties for maximum fit and comfort
- 150+ Washes w/ Zero degradation
- 2-ply filtration inner layer
- Poly spandex interior
- Machine Washable
- Full Color Sublimated Design
- Performance wicking polyester outer shell

Standard Custom Reusable Protective Masks - (*With earloops*)



SKU #: J2SCRMSKE
Box/Case Count: Minimum Order 100 - 250 units per case
Delivery: Quoted Upon Request

MADE IN USA

- Made in USA
- 1 Piece Structure
- Elastic ear loops
- 150+ Washes w/ Zero degradation
- 2-ply filtration inner layer
- Poly spandex interior
- Full Color Sublimated Design
- Machine Washable
- Performance wicking polyester outer shell

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J2 MEDICAL SUPPLY
MASKS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)



Custom Protective Single Ply Gaiters

SKU #1: J2CPGTSME - (SM/MD)
SKU #2: J2CPGTLXE - (LG/XL)
Box/Case Count: 50 units per box/ 250 units per case
Delivery: Quoted Upon Request

MADE IN USA

- Made in USA
- Single Ply Structure
- Performance wicking poly-spandex
- Contoured facial structure
- Easy-breathable fit
- Minimum Order 100



Custom Protective 2 Ply Gaiters

SKU #1: J2C2PGSME - (SM/MD)
SKU #2: J2C2PGLXE - (LG/XL)
Box/Case Count: 50 units per box/ 250 units per case
Delivery: Quoted Upon Request

MADE IN USA

- Made in USA
- 2 Ply Structure
- Performance wicking poly-spandex outer shell
- Easy breathe Poly-spandex interior
- Contoured facial structure
- Minimum Order 100

As of 12.28.2020

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J2 MEDICAL SUPPLY

GOWNS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)

AAMI Level 2 Disposable Isolation Gowns - *("Valencia") Manufactured by J2 Medical Supply*



SKU #1: J2IG2VSMC (SM/MD)
SKU #2: J2IG2VLXC (LG/XL)
SKU #3: J2IG2V2XC (2X) add $1.00
SKU #4: J2IG2V3XC (3X) add $1.50
Box/Case Count: 80 units per case
Delivery: Quoted Upon Request

MADE IN USA

- Over the head with thumb loop
- Functionally designed for easy donning and removal
- Available in four sizes - SM/MD, LG/XL, 2X add $1.00, and 3X add $1.50
- 70g Spunlace nonwoven
- Berry Compliant
- Superior comfort while providing protection from light to moderate fluid exposure
- Product Color: Blue

AAMI Level 2 Disposable Isolation Gowns - *("Valencia II") Manufactured by J2 Medical Supply*



SKU #1: J2IG2V2SC (SM/MD)
SKU #2: J2IG2V2LC (LG/XL)
Box/Case Count: 100 units per case
Delivery: Quoted Upon Request

- Over the head with thumb loop
- Perforated back for easy removal
- Functionally designed for easy donning and removal
- Available in two sizes - SM/MD and LG/XL
- SMS Nonwoven - 35gsm
- Superior comfort while providing protection from light to moderate fluid exposure
- Product Color: Blue

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J2 MEDICAL SUPPLY

GOWNS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)

AAMI Level 2 Disposable Isolation Gowns - *("Sunshine") Manufactured by J2 Medical Supply*



SKU #1: J2IG2SSMC (SM/MD)
SKU #2: J2IG2SLXC (LG/XL)
Box/Case Count: 100 units per case
Delivery: Quoted Upon Request

- Over the head with thumb loop
- Perforated back for easy removal
- Functionally designed for easy donning and removal
- Available in two sizes - SM/MD and LG/XL
- 35g SMS nonwoven
- Superior comfort while providing protection from light to moderate fluid exposure
- Product Color: Yellow

AAMI Level 2 Disposable Isolation Gowns - *("Ocean")*



SKU #: J2IG2OCNC
Box/Case Count: 100 units per case
Delivery: Quoted Upon Request

- Single layer polyethylene
- Reliable protection from transfer of microorganisms and body fluids
- Over the head with thumb loop
- Perforated back for easy removal
- Waist and neck tie closures
- Lightweight, breathable and comfortable
- Latex Free
- Sizes - One Size Fits Most
- Product Color: Blue

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J2 MEDICAL SUPPLY

GOWNS

AAMI Level 3 Disposable Isolation Gowns - *("Valencia III") Manufactured by J2 Medical Supply*



SKU #1: J2IGV3SMC (SM/MD)
SKU #2: J2IGV3LXC (LG/XL)
SKU #3: : J2IGV32XC (2X) add $1.00
SKU #4: J2IGV33XC (3X) add $1.50
Box/Case Count: 80 units per case
Delivery: Quoted Upon Request

MADE IN USA

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)

- Over the head with thumb loop
- Functionally designed for easy donning and removal
- Available in four sizes - SM/MD, LG/XL, 2X add $1.00, and 3X add $1.50
- SMS - 44 GSM
- Berry Compliant
- Provides protection from light to moderate fluid exposure
- Product Color: Blue

AAMI Level 3 Disposable Isolation Gowns - *("New York")*



SKU #: J2IG3SSMC
Box/Case Count: 100 units per case
Delivery: Quoted Upon Request

- Full back coverage
- Elastic on the wrist for comfortable fit
- 50gsm Polypropylene Non-woven
- Provides comfort while providing protection from moderate to high fluid exposure
- Sizes - One Size Fits Most
- Product Color: Blue

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J2 MEDICAL SUPPLY

GLOVES

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)



Nitrile Examination Gloves

SKU #1: J2NG4MSMB
SKU #2: J2NG4MMDB
SKU #3: J2NG4MLGB
SKU #4: J2NG4MXLB
Box/Case Count: 100 units per box/ 10 boxes per case/ 1,000 units per case
Delivery: Quoted Upon Request

- ASTM D6319
- Latex Free/Powder Free
- Sizes - Small, Medium, Large & Extra Large
- Product Color: Blue
- 510 K approved
- Must be ordered in increments of 10 boxes



Vinyl Examination Gloves

SKU #1: J2VG4MSMB
SKU #2: J2VG4MMDB
SKU #3: J2VG4MLGB
SKU #4: J2VG4MXLB
Box/Case Count: 100 units per box/ 10 boxes per case/ 1,000 units per case
Delivery: Quoted Upon Request

- ASTM D5250
- Latex Free/Powder Free
- Sizes - Small, Medium, Large & Extra Large
- Product Color: Clear
- 510 K approved
- Must be ordered in increments of 10 boxes

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J2 MEDICAL SUPPLY

BOUFFANT HEAD COVERS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)



Bouffant Head Covers - *Manufactured by J2 Medical Supply*

MADE IN USA

SKU #: J2BHCUS1B
Box/Case Count: 50 units per pack/ 10 packs per case/ 500 units per case
Delivery: Quoted Upon Request

- Elastic band provides comfort and keeps cap in place on the forehead
- Made in USA
- Available in blue
- Comfortable lightweight 70g spunlace nonwoven fabric
- Sizes - One Size Fits Most- Will comfortably accommodate 28"



Bouffant Head Covers - *(Imported)*

SKU #: J2BHCCN1B
Box/Case Count: 100 units per pack/ 10 packs per case/ 1,000 units per case
Delivery: Quoted Upon Request

- Elastic band provides comfort and keeps cap in place on the forehead
- Available in blue
- Comfortable lightweight 50g SMS nonwoven fabric
- Sizes - One Size Fits Most- Will comfortably accommodate 28"

As of 12.28.2020

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J2 MEDICAL SUPPLY

SHOE COVERS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)



Shoe Covers

MADE IN USA

SKU #: J2SCUS01B
Box/Case Count: 50 units per pack/ 10 packs per case/ 500 units per case
Delivery: Quoted Upon Request

- Nonskid, slip-on shoe covers
- Available in blue
- Spunlace fabric
- Helps protects shoes from spills and splashes
- Made in USA
- Sizes - One Size Fits Most



Shoe Covers - *(Imported)*

SKU #: J2SCCN01B
Box/Case Count: 100 units per pack/ 10 packs per case/ 1,000 units per case
Delivery: Quoted Upon Request

- Nonskid, slip-on shoe covers
- Available in blue
- SMS fabric
- Helps protects shoes from spills and splashes
- Sizes - One Size Fits Most

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J2 MEDICAL SUPPLY

HAND SANITIZERS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)



Hand Sanitizer - 10oz

SKU #: J2HS10OZC
Box/Case Count: 48 units per case
Delivery: Quoted Upon Request

- 75% Ethyl Alcohol
- Kills 99.9% of germs
- Unscented
- Rinse Free Gel
- Ingredients: Alcohol, acrylic polymer, glycerin, triethanolamine, water



Hand Sanitizer - 2oz

SKU #: J2HS02OZC
Box/Case Count: 200 units per case
Delivery: Quoted Upon Request

- 75% Ethyl Alcohol
- Kills 99.9% of germs
- Unscented
- Rinse Free Gel
- Ingredients: Alcohol, acrylic polymer, glycerin, triethanolamine, water

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Touchless Key Tools

SKU #: J2TKT0BSB
Box/Case Count: 10-pack (5 silver and 5 black)
Delivery: Quoted Upon Request

- Touch-free hygienic door opener
- Effective stylus that reduces direct contact with most touchscreens
- Convenient key ring
- Durable and sturdy anti-microbial properties
- Available in silver and black
- High quantities

J2 MEDICAL SUPPLY
TOUCHLESS KEY TOOLS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)

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Warehousing and Fulfillment



FREE

FOR ALL PRODUCTS PURCHASED FROM J2 MEDICAL SUPPLY!

FREE SHIPPING & HANDLING TO ONE LOCATION (IN CONTINENTAL U.S.)

DROP-SHIPPING CAPABILITY TO MULTIPLE LOCATIONS (ADDITIONAL FEES APPLY)

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TO ORDER, EMAIL: Robbie.Everage@j2medicalsupply.com **OR CALL:** 480.266.4224

Product Quantity Per Pallet

SKU #	Product	Quantity Per Pallet
J2FSMG01B	Face Shields	30 Packs
J2N95RM4B	N95 Respirator Masks, AOK Tooling Limited, 3D Mask	640 Boxes
J2N95RM7B (Standard)	N95 Respirator Masks, Makrite 9500 - (SD)	600 Boxes
J2N95RM6B (Small)	N95 Respirator Masks, Makrite 9500 - (SM)	600 Boxes
J2N95RM3B (LG)	N95 Respirator Masks, AOK Tooling Limited, V-Fold - (LG)	780 Boxes
J2N95RM5B (MD)	N95 Respirator Masks, AOK Tooling Limited, V-Fold - (MD)	780 Boxes
J2KN95CGB	KN95 Respirator Masks, Civil Grade	288 Boxes
J2KN95CGB	3-Ply Surgical Masks, ASTM Level 3 - (With ties)	240 Boxes
J23PL3ELB	3-Ply Face Masks, ASTM Level 3	1,200 Boxes
J23PCSMKB	3-Ply Face Masks, Child Size, ASTM Level 3	1,200 Boxes
J2PCRMSKE	Premium Custom Reusable Protective Masks - (With ties)	TBA
J2SCRMSKE	Standard Custom Reusable Protective Masks	TBA
J2CPGTSME - (SM/MD)	Custom Protective Single Ply Gaiters - (SM/MD)	TBA
J2CPGTLXE - (LG/XL)	Custom Protective Single Ply Gaiters - (LG/XL)	TBA
J2C2PGSME - (SM/MD)	Custom Protective 2 Ply Gaiters - (SM/MD)	TBA
J2C2PGLXE - (LG/XL)	Custom Protective 2 Ply Gaiters - (LG/XL)	TBA
J2IG2VSMC (SM/MD)	AAMI Level 2 Disposable Isolation Gowns - ("Valencia") - (SM/MD)	25 Boxes
J2IG2VLXC (LG/XL)	AAMI Level 2 Disposable Isolation Gowns - ("Valencia") - (LG/XL)	25 Boxes
J2IG2V2XC (2X)	AAMI Level 2 Disposable Isolation Gowns - ("Valencia") - (2X)	25 Boxes
J2IG2V3XC (3X)	AAMI Level 2 Disposable Isolation Gowns - ("Valencia") - (3X)	25 Boxes
J2IG2V2SC (SM/MD)	AAMI Level 2 Disposable Isolation Gowns - ("Valencia II") - (SM/MD)	30 Cases
J2IG2V2LC (LG/XL)	AAMI Level 2 Disposable Isolation Gowns - ("Valencia II") - (LG/XL)	30 Cases
J2IG2SSMC (SM/MD)	AAMI Level 2 Disposable Isolation Gowns - ("Sunshine") - (SM/MD)	30 Cases
J2IG2SLXC (LG/XL)	AAMI Level 2 Disposable Isolation Gowns - ("Sunshine") - (LG/XL)	30 Cases
J2IG2SLXC (LG/XL)	AAMI Level 2 Disposable Isolation Gowns - ("Ocean")	24 Cases

SKU #	Product	Quantity Per Pallet
J2IG3SSMC	AAMI Level 3 Disposable Isolation Gowns - ("New York")	30 Cases
J2NG4MSMB (Small)	Nitrile Examination Gloves (SM)	105 Boxes
J2NG4MMDB (Medium)	Nitrile Examination Gloves (MD)	105 Boxes
J2NG4MLGB (Large)	Nitrile Examination Gloves (LG)	105 Boxes
J2NG4MXLB (XL)	Nitrile Examination Gloves (XL)	105 Boxes
J2VG4MSMB (Small)	Vinyl Examination Gloves (SM)	98 Boxes
J2VG4MMDB (Medium)	Vinyl Examination Gloves (MD)	98 Boxes
J2VG4MLGB (Large)	Vinyl Examination Gloves (LG)	98 Boxes
J2VG4MXLB (XL)	Vinyl Examination Gloves (XL)	98 Boxes
J2BHCUS1B	Bouffant Head Covers	25 Boxes
J2BHCCN1B	Bouffant Head Covers - (Imported)	300 Boxes
J2SCUS01B	Shoe Covers	25 Boxes
J2SCCN01B	Shoe Covers - (Imported)	300 Boxes
J2HS10OZC	Hand Sanitizer - 10oz	36 Cases
J2HS02OZC	Hand Sanitizer - 2oz	45 Cases
J2TKT0BSB	Touchless Key Tools	30 Boxes



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From: Robbie Everage <Robbie.Everage@j2medicalsupply.com>
Sent: Sunday, January 10, 2021 11:55 AM EST
To: Robbie Everage <Robbie.Everage@j2medicalsupply.com>
Subject: J2 Medical Supply | PPE Partner
Attachment(s): "J2MS_PRODUCTS_12.28_Robbie.Everage@j2medicalsupply.com.pdf"

Good Afternoon,

I hope this message finds you well. I am pleased to share with you that J2 Medical Supply now offers **FREE warehousing and fulfillment** to help streamline the PPE procurement process. Additionally, we have added **2XL and 3XL Isolation gowns**.

I have attached my Product Catalog for your review, or you can view it at: https://www.linkedin.com/in/reverage/detail/recent-activity/documents/. J2 Medical is registered with SAM.

If you are experiencing supply chain issues and need an additional source of PPE, I hope you will consider reaching ou

We are very grateful for all of your hard work during this most difficult time to keep our communities safe.

Thank you for all you dcand Happy New Year!
Robbie



J2 | MEDICAL SUPPLY
Robbie Everage | Territory Manager
480.266.4224 - cell | 505.898.8879 - office
robbie.everage@j2medicalsupply.com
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PRODUCTS

Proven. Reliable. With more than 30 years in manufacturing, distribution and logistics experience, J2 Medical Supply is an intelligent choice for small and large quantity clients interested in a proven and reliable PPE supply chain.



FREE SHIPPING & HANDLING
ON ALL ORDERS (IN CONTINENTAL U.S.)

FDA

SAM SYSTEM FOR AWARD MANAGEMENT

E-Verify

MADE IN CALIFORNIA

100% AMERICAN OWNED

AMERICAN OVERSIGHT
NM-OTERO-21-0275-A-000796

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AMERICAN OVERSIGHT

As of 12.28.2020

CLIENT TESTIMONIALS

Henry Mayo Newhall Hospital

"Reliable and timely vendor that delivered quality PPE when we needed it most."

SONY PICTURES

"Responsive, solution-oriented partner that helped us find solutions for our PPE needs."

STIFEL

"Our customized masks were outstanding. Well-received by our employees and clients."

The ORTHOPEDIC CENTER OF ST. LOUIS

"Prompt, professional and delivered ahead of schedule. Will certainly use J2MS again."



Face Shields

SKU #: J2FSMG01B
Box/Case Count: 12 units per pack/ 20 packs per case/ 240 units per case
Delivery: Quoted Upon Request

- Anti-Fog Protection
- Foam for forehead
- 7mm polyester film
- Elastic band
- Full Length
- Can be worn with or without glasses
- Latex free
- 7.2oz

J2 | MEDICAL SUPPLY
FACE SHIELDS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)

As of 12.28.2020

AMERICAN OVERSIGHT

J2 MEDICAL SUPPLY
MASKS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)



N95 Respirator Masks, AOK Tooling Limited, 3D Mask

SKU #: J2N95RM4B
Box/Case Count: 10 units per box/ 20 boxes per case/ 200 units per case
Delivery: Quoted Upon Request

- 95% particle filtration efficiency
- 99.9% bacterial and viral efficiency
- Polyester straps and adjustable nose clip
- Straps – Polyester Elastic Cord
- Meltblown Nonwoven Polypropylene Filter
- Size - Standard

Listed on CDC NIOSH approved N95 Particulate Filter Face Piece Respirator List - Approval No. 84A-8449



N95 Respirator Masks, Makrite 9500

SKU #1: J2N95RM7B (Standard) **SKU #2:** J2N95RM6B (Small)
Box/Case Count: 20 units per box/ 12 boxes per case/ 240 units per case
Delivery: Quoted Upon Request

- NIOSH approved N95 Rating
- This N95 is FDA approved as surgical mask
- 4 layers design
- Adjustable nose clip significantly reduces air penetration
- Ultrasonically welded ear loops stay firmly attached
- Comfortable urethane foam nose-piece to reduce leakage
- Sizes - Standard and Small

Listed on CDC NIOSH approved N95 Particulate Filter Face Piece Respirator List - Approval No. 84A-5411 *(Standard)*

Listed on CDC NIOSH approved N95 Particulate Filter Face Piece Respirator List - Approval No. 84A-5463 *(Small)*

As of 12.28.2020

AMERICAN OVERSIGHT

J2 MEDICAL SUPPLY
MASKS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)

N95 Respirator Masks, AOK Tooling Limited, V-Fold



SKU #1: J2N95RM3B (LG) **SKU #2:** J2N95RM5B (MD)
Box/Case Count: 10 units per box/ 30 boxes per case/ 300 units per case
Delivery: Quoted Upon Request

- NIOSH approved N95 Rating
- FDA EUA Class 2 Listed
- Silicon sealed for better protection
- Ultrasonically welded adjustable headbands
- Adjustable Nose Clip
- Flat-fold easy carry and easy store
- Meltblown Nonwoven Polypropylene Filter
- Size - Large and Medium

Listed on CDC NIOSH approved N95 Particulate Filter Face Piece Respirator List - Approval No. 84A-8131

KN95 Respirator Masks, Civil Grade



SKU #: J2KN95CGB
Box/Case Count: 50 units per box/ 24 boxes per case/ 1,200 units per case
Delivery: Quoted Upon Request

- 95% filtration of very small (0.3 micron) airborne particles
- 5-Layer Protection (high quality nonwoven fabric, hot air cotton and melt-blown fabric)
- Adjustable and metal nose clip
- 3D foldable design
- 3D foldable design
- Elastic ear-loop, soft fabric
- Size - One Size Fits Most

As of 12.28.2020

AMERICAN OVERSIGHT

J2 MEDICAL SUPPLY

MASKS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)

3-Ply Surgical Masks, ASTM Level 3 - *(With ties)*



SKU #: J23PSM01B
Box/Case Count: 100 units per box/ 10 boxes per case/ 1,000 units per case
Delivery: Quoted Upon Request

- Fluid resistant @ 160 mm Hg
- <5.0 mm H20/cm2 differential pressure
- >98% bacterial filtration efficient
- >98% sub-micron particulates filtration efficient
- Class 1 -normal flammability
- Product Color: Blue
- Sterile

3-Ply Face Masks, ASTM Level 3



SKU #: J23PL3ELB
Box/Case Count: 50 units per box/ 40 boxes per case/ 2,000 units per case
Delivery: Quoted Upon Request

- Fluid resistant @ 160 mm Hg
- <6.0 mm H20/cm2 differential pressure
- >98% bacterial filtration efficient
- >98% sub-micron particulates filtration efficient
- Class 1 -normal flammability
- Product Color: Blue

AMERICAN OVERSIGHT

As of 12.28.2020

3-Ply Face Masks, Child Size, ASTM Level 3

J2 MEDICAL SUPPLY
MASKS



SKU #: J23PCSMKB
Box/Case Count: 50 units per box/ 40 boxes per case/ 2,000 units per case
Delivery: Quoted Upon Request

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)

- 160 mm Hg
- <6.0 H20/cm2 differential pressure
- ≥ 98% bacterial filtration efficient
- ≥98% sub-micron particulates filtration efficient
- Class 1 -normal flammability
- Product Color: Blue

AMERICAN OVERSIGHT

As of 12.28.2020

J2 MEDICAL SUPPLY
MASKS

Premium Custom Reusable Protective Masks - (*With ties*)



SKU #: J2PCRMSKE
Box/Case Count: Minimum Order 100 - 250 units per case
Delivery: Quoted Upon Request

MADE IN USA

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)

- Made in USA
- 4-Part Contoured facial structure
- Adjustable ties for maximum fit and comfort
- 150+ Washes w/ Zero degradation
- 2-ply filtration inner layer
- Poly spandex interior
- Machine Washable
- Full Color Sublimated Design
- Performance wicking polyester outer shell

Standard Custom Reusable Protective Masks - (*With earloops*)



SKU #: J2SCRMSKE
Box/Case Count: Minimum Order 100 - 250 units per case
Delivery: Quoted Upon Request

MADE IN USA

- Made in USA
- 1 Piece Structure
- Elastic ear loops
- 150+ Washes w/ Zero degradation
- 2-ply filtration inner layer
- Poly spandex interior
- Full Color Sublimated Design
- Machine Washable
- Performance wicking polyester outer shell

AMERICAN OVERSIGHT

As of 12.28.2020

J2 MEDICAL SUPPLY
MASKS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)



Custom Protective Single Ply Gaiters

SKU #1: J2CPGTSME - (SM/MD)
SKU #2: J2CPGTLXE - (LG/XL)
Box/Case Count: 50 units per box/ 250 units per case
Delivery: Quoted Upon Request

MADE IN USA

- Made in USA
- Single Ply Structure
- Performance wicking poly-spandex
- Contoured facial structure
- Easy-breathable fit
- Minimum Order 100



Custom Protective 2 Ply Gaiters

SKU #1: J2C2PGSME - (SM/MD)
SKU #2: J2C2PGLXE - (LG/XL)
Box/Case Count: 50 units per box/ 250 units per case
Delivery: Quoted Upon Request

MADE IN USA

- Made in USA
- 2 Ply Structure
- Performance wicking poly-spandex outer shell
- Easy breathe Poly-spandex interior
- Contoured facial structure
- Minimum Order 100

As of 12.28.2020

AMERICAN OVERSIGHT

J2 MEDICAL SUPPLY

GOWNS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)

AAMI Level 2 Disposable Isolation Gowns - *("Valencia") Manufactured by J2 Medical Supply*



SKU #1: J2IG2VSMC (SM/MD)
SKU #2: J2IG2VLXC (LG/XL)
SKU #3: J2IG2V2XC (2X) add $1.00
SKU #4: J2IG2V3XC (3X) add $1.50
Box/Case Count: 80 units per case
Delivery: Quoted Upon Request

MADE IN USA

- Over the head with thumb loop
- Functionally designed for easy donning and removal
- Available in four sizes - SM/MD, LG/XL, 2X add $1.00, and 3X add $1.50
- 70g Spunlace nonwoven
- Berry Compliant
- Superior comfort while providing protection from light to moderate fluid exposure
- Product Color: Blue

AAMI Level 2 Disposable Isolation Gowns - *("Valencia II") Manufactured by J2 Medical Supply*



SKU #1: J2IG2V2SC (SM/MD)
SKU #2: J2IG2V2LC (LG/XL)
Box/Case Count: 100 units per case
Delivery: Quoted Upon Request

- Over the head with thumb loop
- Perforated back for easy removal
- Functionally designed for easy donning and removal
- Available in two sizes - SM/MD and LG/XL
- SMS Nonwoven - 35gsm
- Superior comfort while providing protection from light to moderate fluid exposure
- Product Color: Blue

As of 12.28.2020

AMERICAN OVERSIGHT

J2 MEDICAL SUPPLY

GOWNS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)

AAMI Level 2 Disposable Isolation Gowns - *("Sunshine") Manufactured by J2 Medical Supply*



SKU #1: J2IG2SSMC (SM/MD)
SKU #2: J2IG2SLXC (LG/XL)
Box/Case Count: 100 units per case
Delivery: Quoted Upon Request

- Over the head with thumb loop
- Perforated back for easy removal
- Functionally designed for easy donning and removal
- Available in two sizes - SM/MD and LG/XL
- 35g SMS nonwoven
- Superior comfort while providing protection from light to moderate fluid exposure
- Product Color: Yellow

AAMI Level 2 Disposable Isolation Gowns - *("Ocean")*



SKU #: J2IG2OCNC
Box/Case Count: 100 units per case
Delivery: Quoted Upon Request

- Single layer polyethylene
- Reliable protection from transfer of microorganisms and body fluids
- Over the head with thumb loop
- Perforated back for easy removal
- Waist and neck tie closures
- Lightweight, breathable and comfortable
- Latex Free
- Sizes - One Size Fits Most
- Product Color: Blue

As of 12.28.2020

AMERICAN OVERSIGHT

J2 MEDICAL SUPPLY
GOWNS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)

AAMI Level 3 Disposable Isolation Gowns - *("Valencia III") Manufactured by J2 Medical Supply*



SKU #1: J2IGV3SMC (SM/MD)
SKU #2: J2IGV3LXC (LG/XL)
SKU #3: : J2IGV32XC (2X) add $1.00
SKU #4: J2IGV33XC (3X) add $1.50
Box/Case Count: 80 units per case
Delivery: Quoted Upon Request

MADE IN USA

- Over the head with thumb loop
- Functionally designed for easy donning and removal
- Available in four sizes - SM/MD, LG/XL, 2X add $1.00, and 3X add $1.50
- SMS - 44 GSM
- Berry Compliant
- Provides protection from light to moderate fluid exposure
- Product Color: Blue

AAMI Level 3 Disposable Isolation Gowns - *("New York")*



SKU #: J2IG3SSMC
Box/Case Count: 100 units per case
Delivery: Quoted Upon Request

- Full back coverage
- Elastic on the wrist for comfortable fit
- 50gsm Polypropylene Non-woven
- Provides comfort while providing protection from moderate to high fluid exposure
- Sizes - One Size Fits Most
- Product Color: Blue

As of 12.28.2020

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J2 MEDICAL SUPPLY

GLOVES

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)



Nitrile Examination Gloves

SKU #1: J2NG4MSMB
SKU #2: J2NG4MMDB
SKU #3: J2NG4MLGB
SKU #4: J2NG4MXLB
Box/Case Count: 100 units per box/ 10 boxes per case/ 1,000 units per case
Delivery: Quoted Upon Request

- ASTM D6319
- Latex Free/Powder Free
- Sizes - Small, Medium, Large & Extra Large
- Product Color: Blue
- 510 K approved
- Must be ordered in increments of 10 boxes



Vinyl Examination Gloves

SKU #1: J2VG4MSMB
SKU #2: J2VG4MMDB
SKU #3: J2VG4MLGB
SKU #4: J2VG4MXLB
Box/Case Count: 100 units per box/ 10 boxes per case/ 1,000 units per case
Delivery: Quoted Upon Request

- ASTM D5250
- Latex Free/Powder Free
- Sizes - Small, Medium, Large & Extra Large
- Product Color: Clear
- 510 K approved
- Must be ordered in increments of 10 boxes

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As of 12.28.2020

J2 MEDICAL SUPPLY

BOUFFANT HEAD COVERS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)



Bouffant Head Covers - *Manufactured by J2 Medical Supply*

MADE IN USA

SKU #: J2BHCUS1B
Box/Case Count: 50 units per pack/ 10 packs per case/ 500 units per case
Delivery: Quoted Upon Request

- Elastic band provides comfort and keeps cap in place on the forehead
- Made in USA
- Available in blue
- Comfortable lightweight 70g spunlace nonwoven fabric
- Sizes - One Size Fits Most- Will comfortably accommodate 28"



Bouffant Head Covers - *(Imported)*

SKU #: J2BHCCN1B
Box/Case Count: 100 units per pack/ 10 packs per case/ 1,000 units per case
Delivery: Quoted Upon Request

- Elastic band provides comfort and keeps cap in place on the forehead
- Available in blue
- Comfortable lightweight 50g SMS nonwoven fabric
- Sizes - One Size Fits Most- Will comfortably accommodate 28"

As of 12.28.2020

AMERICAN OVERSIGHT

J2 MEDICAL SUPPLY

SHOE COVERS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)



Shoe Covers

MADE IN USA

SKU #: J2SCUS01B
Box/Case Count: 50 units per pack/ 10 packs per case/ 500 units per case
Delivery: Quoted Upon Request

- Nonskid, slip-on shoe covers
- Available in blue
- Spunlace fabric
- Helps protects shoes from spills and splashes
- Made in USA
- Sizes - One Size Fits Most



Shoe Covers - *(Imported)*

SKU #: J2SCCN01B
Box/Case Count: 100 units per pack/ 10 packs per case/ 1,000 units per case
Delivery: Quoted Upon Request

- Nonskid, slip-on shoe covers
- Available in blue
- SMS fabric
- Helps protects shoes from spills and splashes
- Sizes - One Size Fits Most

AMERICAN OVERSIGHT

As of 12.28.2020

J2 MEDICAL SUPPLY

HAND SANITIZERS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)



Hand Sanitizer - 10oz

SKU #: J2HS10OZC
Box/Case Count: 48 units per case
Delivery: Quoted Upon Request

- 75% Ethyl Alcohol
- Kills 99.9% of germs
- Unscented
- Rinse Free Gel
- Ingredients: Alcohol, acrylic polymer, glycerin, triethanolamine, water



Hand Sanitizer - 2oz

SKU #: J2HS02OZC
Box/Case Count: 200 units per case
Delivery: Quoted Upon Request

- 75% Ethyl Alcohol
- Kills 99.9% of germs
- Unscented
- Rinse Free Gel
- Ingredients: Alcohol, acrylic polymer, glycerin, triethanolamine, water

As of 12.28.2020

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Touchless Key Tools

SKU #: J2TKT0BSB
Box/Case Count: 10-pack (5 silver and 5 black)
Delivery: Quoted Upon Request

- Touch-free hygienic door opener
- Effective stylus that reduces direct contact with most touchscreens
- Convenient key ring
- Durable and sturdy anti-microbial properties
- Available in silver and black
- High quantities

J2 MEDICAL SUPPLY
TOUCHLESS KEY TOOLS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)

AMERICAN OVERSIGHT

As of 12.28.2020

J2 | MEDICAL SUPPLY

Warehousing and Fulfillment



FREE

FOR ALL PRODUCTS PURCHASED FROM J2 MEDICAL SUPPLY!

FREE SHIPPING & HANDLING TO ONE LOCATION (IN CONTINENTAL U.S.)

DROP-SHIPPING CAPABILITY TO MULTIPLE LOCATIONS (ADDITIONAL FEES APPLY)

AMERICAN OVERSIGHT

TO ORDER, EMAIL: Robbie.Everage@j2medicalsupply.com **OR CALL:** 480.266.4224

Product Quantity Per Pallet

SKU #	Product	Quantity Per Pallet
J2FSMG01B	Face Shields	30 Packs
J2N95RM4B	N95 Respirator Masks, AOK Tooling Limited, 3D Mask	640 Boxes
J2N95RM7B (Standard)	N95 Respirator Masks, Makrite 9500 - (SD)	600 Boxes
J2N95RM6B (Small)	N95 Respirator Masks, Makrite 9500 - (SM)	600 Boxes
J2N95RM3B (LG)	N95 Respirator Masks, AOK Tooling Limited, V-Fold - (LG)	780 Boxes
J2N95RM5B (MD)	N95 Respirator Masks, AOK Tooling Limited, V-Fold - (MD)	780 Boxes
J2KN95CGB	KN95 Respirator Masks, Civil Grade	288 Boxes
J2KN95CGB	3-Ply Surgical Masks, ASTM Level 3 - (With ties)	240 Boxes
J23PL3ELB	3-Ply Face Masks, ASTM Level 3	1,200 Boxes
J23PCSMKB	3-Ply Face Masks, Child Size, ASTM Level 3	1,200 Boxes
J2PCRMSKE	Premium Custom Reusable Protective Masks - (With ties)	TBA
J2SCRMSKE	Standard Custom Reusable Protective Masks	TBA
J2CPGTSME - (SM/MD)	Custom Protective Single Ply Gaiters - (SM/MD)	TBA
J2CPGTLXE - (LG/XL)	Custom Protective Single Ply Gaiters - (LG/XL)	TBA
J2C2PGSME - (SM/MD)	Custom Protective 2 Ply Gaiters - (SM/MD)	TBA
J2C2PGLXE - (LG/XL)	Custom Protective 2 Ply Gaiters - (LG/XL)	TBA
J2IG2VSMC (SM/MD)	AAMI Level 2 Disposable Isolation Gowns - ("Valencia") - (SM/MD)	25 Boxes
J2IG2VLXC (LG/XL)	AAMI Level 2 Disposable Isolation Gowns - ("Valencia") - (LG/XL)	25 Boxes
J2IG2V2XC (2X)	AAMI Level 2 Disposable Isolation Gowns - ("Valencia") - (2X)	25 Boxes
J2IG2V3XC (3X)	AAMI Level 2 Disposable Isolation Gowns - ("Valencia") - (3X)	25 Boxes
J2IG2V2SC (SM/MD)	AAMI Level 2 Disposable Isolation Gowns - ("Valencia II") - (SM/MD)	30 Cases
J2IG2V2LC (LG/XL)	AAMI Level 2 Disposable Isolation Gowns - ("Valencia II") - (LG/XL)	30 Cases
J2IG2SSMC (SM/MD)	AAMI Level 2 Disposable Isolation Gowns - ("Sunshine") - (SM/MD)	30 Cases
J2IG2SLXC (LG/XL)	AAMI Level 2 Disposable Isolation Gowns - ("Sunshine") - (LG/XL)	30 Cases
J2IG2SLXC (LG/XL)	AAMI Level 2 Disposable Isolation Gowns - ("Ocean")	24 Cases

SKU #	Product	Quantity Per Pallet
J2IG3SSMC	AAMI Level 3 Disposable Isolation Gowns - ("New York")	30 Cases
J2NG4MSMB (Small)	Nitrile Examination Gloves (SM)	105 Boxes
J2NG4MMDB (Medium)	Nitrile Examination Gloves (MD)	105 Boxes
J2NG4MLGB (Large)	Nitrile Examination Gloves (LG)	105 Boxes
J2NG4MXLB (XL)	Nitrile Examination Gloves (XL)	105 Boxes
J2VG4MSMB (Small)	Vinyl Examination Gloves (SM)	98 Boxes
J2VG4MMDB (Medium)	Vinyl Examination Gloves (MD)	98 Boxes
J2VG4MLGB (Large)	Vinyl Examination Gloves (LG)	98 Boxes
J2VG4MXLB (XL)	Vinyl Examination Gloves (XL)	98 Boxes
J2BHCUS1B	Bouffant Head Covers	25 Boxes
J2BHCCN1B	Bouffant Head Covers - (Imported)	300 Boxes
J2SCUS01B	Shoe Covers	25 Boxes
J2SCCN01B	Shoe Covers - (Imported)	300 Boxes
J2HS10OZC	Hand Sanitizer - 10oz	36 Cases
J2HS02OZC	Hand Sanitizer - 2oz	45 Cases
J2TKT0BSB	Touchless Key Tools	30 Boxes



AMERICAN OVERSIGHT

J2 | MEDICAL SUPPLY

PRODUCTS

Proven. Reliable. With more than 30 years in manufacturing, distribution and logistics experience, J2 Medical Supply is an intelligent choice for small and large quantity clients interested in a proven and reliable PPE supply chain.



FREE SHIPPING & HANDLING
ON ALL ORDERS (IN CONTINENTAL U.S.)

FDA

SAM SYSTEM FOR AWARD MANAGEMENT

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As of 12.28.2020

AMERICAN OVERSIGHT

CLIENT TESTIMONIALS

Henry Mayo Newhall Hospital

"Reliable and timely vendor that delivered quality PPE when we needed it most."

SONY PICTURES

"Responsive, solution-oriented partner that helped us find solutions for our PPE needs."

STIFEL

"Our customized masks were outstanding. Well-received by our employees and clients."

The ORTHOPEDIC CENTER OF ST. LOUIS

"Prompt, professional and delivered ahead of schedule. Will certainly use J2MS again."



Face Shields

SKU #: J2FSMG01B
Box/Case Count: 12 units per pack/ 20 packs per case/ 240 units per case
Delivery: Quoted Upon Request

- Anti-Fog Protection
- Foam for forehead
- 7mm polyester film
- Elastic band
- Full Length
- Can be worn with or without glasses
- Latex free
- 7.2oz

J2 | MEDICAL SUPPLY
FACE SHIELDS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)

As of 12.28.2020

AMERICAN OVERSIGHT

J2 MEDICAL SUPPLY
MASKS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)



N95 Respirator Masks, AOK Tooling Limited, 3D Mask

SKU #: J2N95RM4B
Box/Case Count: 10 units per box/ 20 boxes per case/ 200 units per case
Delivery: Quoted Upon Request

- 95% particle filtration efficiency
- 99.9% bacterial and viral efficiency
- Polyester straps and adjustable nose clip
- Straps – Polyester Elastic Cord
- Meltblown Nonwoven Polypropylene Filter
- Size - Standard

Listed on CDC NIOSH approved N95 Particulate Filter Face Piece Respirator List - Approval No. 84A-8449



N95 Respirator Masks, Makrite 9500

SKU #1: J2N95RM7B (Standard) **SKU #2:** J2N95RM6B (Small)
Box/Case Count: 20 units per box/ 12 boxes per case/ 240 units per case
Delivery: Quoted Upon Request

- NIOSH approved N95 Rating
- This N95 is FDA approved as surgical mask
- 4 layers design
- Adjustable nose clip significantly reduces air penetration
- Ultrasonically welded ear loops stay firmly attached
- Comfortable urethane foam nose-piece to reduce leakage
- Sizes - Standard and Small

Listed on CDC NIOSH approved N95 Particulate Filter Face Piece Respirator List - Approval No. 84A-5411 *(Standard)*

Listed on CDC NIOSH approved N95 Particulate Filter Face Piece Respirator List - Approval No. 84A-5463 *(Small)*

As of 12.28.2020

AMERICAN OVERSIGHT

J2 MEDICAL SUPPLY
MASKS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)

N95 Respirator Masks, AOK Tooling Limited, V-Fold



SKU #1: J2N95RM3B (LG) **SKU #2:** J2N95RM5B (MD)
Box/Case Count: 10 units per box/ 30 boxes per case/ 300 units per case
Delivery: Quoted Upon Request

- NIOSH approved N95 Rating
- FDA EUA Class 2 Listed
- Silicon sealed for better protection
- Ultrasonically welded adjustable headbands
- Adjustable Nose Clip
- Flat-fold easy carry and easy store
- Meltblown Nonwoven Polypropylene Filter
- Size - Large and Medium

Listed on CDC NIOSH approved N95 Particulate Filter Face Piece Respirator List - Approval No. 84A-8131

KN95 Respirator Masks, Civil Grade



SKU #: J2KN95CGB
Box/Case Count: 50 units per box/ 24 boxes per case/ 1,200 units per case
Delivery: Quoted Upon Request

- 95% filtration of very small (0.3 micron) airborne particles
- 5-Layer Protection (high quality nonwoven fabric, hot air cotton and melt-blown fabric)
- Adjustable and metal nose clip
- 3D foldable design
- 3D foldable design
- Elastic ear-loop, soft fabric
- Size - One Size Fits Most

As of 12.28.2020

AMERICAN OVERSIGHT

J2 MEDICAL SUPPLY
MASKS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)



3-Ply Surgical Masks, ASTM Level 3 - *(With ties)*

SKU #: J23PSM01B
Box/Case Count: 100 units per box/ 10 boxes per case/ 1,000 units per case
Delivery: Quoted Upon Request

- Fluid resistant @ 160 mm Hg
- <5.0 mm H20/cm2 differential pressure
- >98% bacterial filtration efficient
- >98% sub-micron particulates filtration efficient
- Class 1 -normal flammability
- Product Color: Blue
- Sterile



3-Ply Face Masks, ASTM Level 3

SKU #: J23PL3ELB
Box/Case Count: 50 units per box/ 40 boxes per case/ 2,000 units per case
Delivery: Quoted Upon Request

- Fluid resistant @ 160 mm Hg
- <6.0 mm H20/cm2 differential pressure
- >98% bacterial filtration efficient
- >98% sub-micron particulates filtration efficient
- Class 1 -normal flammability
- Product Color: Blue

AMERICAN OVERSIGHT

As of 12.28.2020

3-Ply Face Masks, Child Size, ASTM Level 3

J2 MEDICAL SUPPLY
MASKS



SKU #: J23PCSMKB
Box/Case Count: 50 units per box/ 40 boxes per case/ 2,000 units per case
Delivery: Quoted Upon Request

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)

- 160 mm Hg
- <6.0 H20/cm2 differential pressure
- ≥ 98% bacterial filtration efficient
- ≥98% sub-micron particulates filtration efficient
- Class 1 -normal flammability
- Product Color: Blue

AMERICAN OVERSIGHT

As of 12.28.2020

J2 MEDICAL SUPPLY

MASKS

Premium Custom Reusable Protective Masks - (*With ties*)



SKU #: J2PCRMSKE
Box/Case Count: Minimum Order 100 - 250 units per case
Delivery: Quoted Upon Request

MADE IN USA

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)

- Made in USA
- 4-Part Contoured facial structure
- Adjustable ties for maximum fit and comfort
- 150+ Washes w/ Zero degradation
- 2-ply filtration inner layer
- Poly spandex interior
- Machine Washable
- Full Color Sublimated Design
- Performance wicking polyester outer shell

Standard Custom Reusable Protective Masks - (*With earloops*)



SKU #: J2SCRMSKE
Box/Case Count: Minimum Order 100 - 250 units per case
Delivery: Quoted Upon Request

MADE IN USA

- Made in USA
- 1 Piece Structure
- Elastic ear loops
- 150+ Washes w/ Zero degradation
- 2-ply filtration inner layer
- Poly spandex interior
- Full Color Sublimated Design
- Machine Washable
- Performance wicking polyester outer shell

AMERICAN OVERSIGHT

As of 12.28.2020

J2 MEDICAL SUPPLY
MASKS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)



Custom Protective Single Ply Gaiters

SKU #1: J2CPGTSME - (SM/MD)
SKU #2: J2CPGTLXE - (LG/XL)
Box/Case Count: 50 units per box/ 250 units per case
Delivery: Quoted Upon Request

MADE IN USA

- Made in USA
- Single Ply Structure
- Performance wicking poly-spandex
- Contoured facial structure
- Easy-breathable fit
- Minimum Order 100



Custom Protective 2 Ply Gaiters

SKU #1: J2C2PGSME - (SM/MD)
SKU #2: J2C2PGLXE - (LG/XL)
Box/Case Count: 50 units per box/ 250 units per case
Delivery: Quoted Upon Request

MADE IN USA

- Made in USA
- 2 Ply Structure
- Performance wicking poly-spandex outer shell
- Easy breathe Poly-spandex interior
- Contoured facial structure
- Minimum Order 100

As of 12.28.2020

AMERICAN OVERSIGHT

J2 MEDICAL SUPPLY

GOWNS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)

AAMI Level 2 Disposable Isolation Gowns - *("Valencia") Manufactured by J2 Medical Supply*



SKU #1: J2IG2VSMC (SM/MD)
SKU #2: J2IG2VLXC (LG/XL)
SKU #3: J2IG2V2XC (2X) add $1.00
SKU #4: J2IG2V3XC (3X) add $1.50
Box/Case Count: 80 units per case
Delivery: Quoted Upon Request

MADE IN USA

- Over the head with thumb loop
- Functionally designed for easy donning and removal
- Available in four sizes - SM/MD, LG/XL, 2X add $1.00, and 3X add $1.50
- 70g Spunlace nonwoven
- Berry Compliant
- Superior comfort while providing protection from light to moderate fluid exposure
- Product Color: Blue

AAMI Level 2 Disposable Isolation Gowns - *("Valencia II") Manufactured by J2 Medical Supply*



SKU #1: J2IG2V2SC (SM/MD)
SKU #2: J2IG2V2LC (LG/XL)
Box/Case Count: 100 units per case
Delivery: Quoted Upon Request

- Over the head with thumb loop
- Perforated back for easy removal
- Functionally designed for easy donning and removal
- Available in two sizes - SM/MD and LG/XL
- SMS Nonwoven - 35gsm
- Superior comfort while providing protection from light to moderate fluid exposure
- Product Color: Blue

As of 12.28.2020

AMERICAN OVERSIGHT

J2 MEDICAL SUPPLY

GOWNS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)

AAMI Level 2 Disposable Isolation Gowns - *("Sunshine") Manufactured by J2 Medical Supply*



SKU #1: J2IG2SSMC (SM/MD)
SKU #2: J2IG2SLXC (LG/XL)
Box/Case Count: 100 units per case
Delivery: Quoted Upon Request

- Over the head with thumb loop
- Perforated back for easy removal
- Functionally designed for easy donning and removal
- Available in two sizes - SM/MD and LG/XL
- 35g SMS nonwoven
- Superior comfort while providing protection from light to moderate fluid exposure
- Product Color: Yellow

AAMI Level 2 Disposable Isolation Gowns - *("Ocean")*



SKU #: J2IG2OCNC
Box/Case Count: 100 units per case
Delivery: Quoted Upon Request

- Single layer polyethylene
- Reliable protection from transfer of microorganisms and body fluids
- Over the head with thumb loop
- Perforated back for easy removal
- Waist and neck tie closures
- Lightweight, breathable and comfortable
- Latex Free
- Sizes - One Size Fits Most
- Product Color: Blue

As of 12.28.2020

AMERICAN OVERSIGHT

J2 MEDICAL SUPPLY
GOWNS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)

AAMI Level 3 Disposable Isolation Gowns - *("Valencia III") Manufactured by J2 Medical Supply*



SKU #1: J2IGV3SMC (SM/MD)
SKU #2: J2IGV3LXC (LG/XL)
SKU #3: : J2IGV32XC (2X) add $1.00
SKU #4: J2IGV33XC (3X) add $1.50
Box/Case Count: 80 units per case
Delivery: Quoted Upon Request

MADE IN USA

- Over the head with thumb loop
- Functionally designed for easy donning and removal
- Available in four sizes - SM/MD, LG/XL, 2X add $1.00, and 3X add $1.50
- SMS - 44 GSM
- Berry Compliant
- Provides protection from light to moderate fluid exposure
- Product Color: Blue

AAMI Level 3 Disposable Isolation Gowns - *("New York")*



SKU #: J2IG3SSMC
Box/Case Count: 100 units per case
Delivery: Quoted Upon Request

- Full back coverage
- Elastic on the wrist for comfortable fit
- 50gsm Polypropylene Non-woven
- Provides comfort while providing protection from moderate to high fluid exposure
- Sizes - One Size Fits Most
- Product Color: Blue

As of 12.28.2020

AMERICAN OVERSIGHT

J2 MEDICAL SUPPLY

GLOVES

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)



Nitrile Examination Gloves

SKU #1: J2NG4MSMB
SKU #2: J2NG4MMDB
SKU #3: J2NG4MLGB
SKU #4: J2NG4MXLB
Box/Case Count: 100 units per box/ 10 boxes per case/ 1,000 units per case
Delivery: Quoted Upon Request

- ASTM D6319
- Latex Free/Powder Free
- Sizes - Small, Medium, Large & Extra Large
- Product Color: Blue
- 510 K approved
- Must be ordered in increments of 10 boxes



Vinyl Examination Gloves

SKU #1: J2VG4MSMB
SKU #2: J2VG4MMDB
SKU #3: J2VG4MLGB
SKU #4: J2VG4MXLB
Box/Case Count: 100 units per box/ 10 boxes per case/ 1,000 units per case
Delivery: Quoted Upon Request

- ASTM D5250
- Latex Free/Powder Free
- Sizes - Small, Medium, Large & Extra Large
- Product Color: Clear
- 510 K approved
- Must be ordered in increments of 10 boxes

AMERICAN OVERSIGHT

As of 12.28.2020

J2 MEDICAL SUPPLY

BOUFFANT HEAD COVERS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)



Bouffant Head Covers - *Manufactured by J2 Medical Supply*

MADE IN USA

SKU #: J2BHCUS1B
Box/Case Count: 50 units per pack/ 10 packs per case/ 500 units per case
Delivery: Quoted Upon Request

- Elastic band provides comfort and keeps cap in place on the forehead
- Made in USA
- Available in blue
- Comfortable lightweight 70g spunlace nonwoven fabric
- Sizes - One Size Fits Most- Will comfortably accommodate 28"



Bouffant Head Covers - *(Imported)*

SKU #: J2BHCCN1B
Box/Case Count: 100 units per pack/ 10 packs per case/ 1,000 units per case
Delivery: Quoted Upon Request

- Elastic band provides comfort and keeps cap in place on the forehead
- Available in blue
- Comfortable lightweight 50g SMS nonwoven fabric
- Sizes - One Size Fits Most- Will comfortably accommodate 28"

As of 12.28.2020

AMERICAN OVERSIGHT



Shoe Covers

MADE IN USA

SKU #: J2SCUS01B
Box/Case Count: 50 units per pack/ 10 packs per case/ 500 units per case
Delivery: Quoted Upon Request

- Nonskid, slip-on shoe covers
- Available in blue
- Spunlace fabric
- Helps protects shoes from spills and splashes
- Made in USA
- Sizes - One Size Fits Most



Shoe Covers - *(Imported)*

SKU #: J2SCCN01B
Box/Case Count: 100 units per pack/ 10 packs per case/ 1,000 units per case
Delivery: Quoted Upon Request

- Nonskid, slip-on shoe covers
- Available in blue
- SMS fabric
- Helps protects shoes from spills and splashes
- Sizes - One Size Fits Most

J2 MEDICAL SUPPLY

SHOE COVERS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)

As of 12.28.2020

AMERICAN OVERSIGHT

J2 MEDICAL SUPPLY

HAND SANITIZERS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)



Hand Sanitizer - 10oz

SKU #: J2HS10OZC
Box/Case Count: 48 units per case
Delivery: Quoted Upon Request

- 75% Ethyl Alcohol
- Kills 99.9% of germs
- Unscented
- Rinse Free Gel
- Ingredients: Alcohol, acrylic polymer, glycerin, triethanolamine, water



Hand Sanitizer - 2oz

SKU #: J2HS02OZC
Box/Case Count: 200 units per case
Delivery: Quoted Upon Request

- 75% Ethyl Alcohol
- Kills 99.9% of germs
- Unscented
- Rinse Free Gel
- Ingredients: Alcohol, acrylic polymer, glycerin, triethanolamine, water

AMERICAN OVERSIGHT

As of 12.28.2020



Touchless Key Tools

SKU #: J2TKT0BSB
Box/Case Count: 10-pack (5 silver and 5 black)
Delivery: Quoted Upon Request

- Touch-free hygienic door opener
- Effective stylus that reduces direct contact with most touchscreens
- Convenient key ring
- Durable and sturdy anti-microbial properties
- Available in silver and black
- High quantities

J2 MEDICAL SUPPLY

TOUCHLESS KEY TOOLS

FREE SHIPPING & HANDLING ON ALL ORDERS (IN CONTINENTAL U.S.)

AMERICAN OVERSIGHT

As of 12.28.2020

J2 | MEDICAL SUPPLY

Warehousing and Fulfillment



FREE

FOR ALL PRODUCTS PURCHASED FROM J2 MEDICAL SUPPLY!

FREE SHIPPING & HANDLING TO ONE LOCATION (IN CONTINENTAL U.S.)

DROP-SHIPPING CAPABILITY TO MULTIPLE LOCATIONS (ADDITIONAL FEES APPLY)

AMERICAN OVERSIGHT

TO ORDER, EMAIL: Robbie.Everage@j2medicalsupply.com **OR CALL:** 480.266.4224

Product Quantity Per Pallet

SKU #	Product	Quantity Per Pallet
J2FSMG01B	Face Shields	30 Packs
J2N95RM4B	N95 Respirator Masks, AOK Tooling Limited, 3D Mask	640 Boxes
J2N95RM7B (Standard)	N95 Respirator Masks, Makrite 9500 - (SD)	600 Boxes
J2N95RM6B (Small)	N95 Respirator Masks, Makrite 9500 - (SM)	600 Boxes
J2N95RM3B (LG)	N95 Respirator Masks, AOK Tooling Limited, V-Fold - (LG)	780 Boxes
J2N95RM5B (MD)	N95 Respirator Masks, AOK Tooling Limited, V-Fold - (MD)	780 Boxes
J2KN95CGB	KN95 Respirator Masks, Civil Grade	288 Boxes
J2KN95CGB	3-Ply Surgical Masks, ASTM Level 3 - (With ties)	240 Boxes
J23PL3ELB	3-Ply Face Masks, ASTM Level 3	1,200 Boxes
J23PCSMKB	3-Ply Face Masks, Child Size, ASTM Level 3	1,200 Boxes
J2PCRMSKE	Premium Custom Reusable Protective Masks - (With ties)	TBA
J2SCRMSKE	Standard Custom Reusable Protective Masks	TBA
J2CPGTSME - (SM/MD)	Custom Protective Single Ply Gaiters - (SM/MD)	TBA
J2CPGTLXE - (LG/XL)	Custom Protective Single Ply Gaiters - (LG/XL)	TBA
J2C2PGSME - (SM/MD)	Custom Protective 2 Ply Gaiters - (SM/MD)	TBA
J2C2PGLXE - (LG/XL)	Custom Protective 2 Ply Gaiters - (LG/XL)	TBA
J2IG2VSMC (SM/MD)	AAMI Level 2 Disposable Isolation Gowns - ("Valencia") - (SM/MD)	25 Boxes
J2IG2VLXC (LG/XL)	AAMI Level 2 Disposable Isolation Gowns - ("Valencia") - (LG/XL)	25 Boxes
J2IG2V2XC (2X)	AAMI Level 2 Disposable Isolation Gowns - ("Valencia") - (2X)	25 Boxes
J2IG2V3XC (3X)	AAMI Level 2 Disposable Isolation Gowns - ("Valencia") - (3X)	25 Boxes
J2IG2V2SC (SM/MD)	AAMI Level 2 Disposable Isolation Gowns - ("Valencia II") - (SM/MD)	30 Cases
J2IG2V2LC (LG/XL)	AAMI Level 2 Disposable Isolation Gowns - ("Valencia II") - (LG/XL)	30 Cases
J2IG2SSMC (SM/MD)	AAMI Level 2 Disposable Isolation Gowns - ("Sunshine") - (SM/MD)	30 Cases
J2IG2SLXC (LG/XL)	AAMI Level 2 Disposable Isolation Gowns - ("Sunshine") - (LG/XL)	30 Cases
J2IG2SLXC (LG/XL)	AAMI Level 2 Disposable Isolation Gowns - ("Ocean")	24 Cases

SKU #	Product	Quantity Per Pallet
J2IG3SSMC	AAMI Level 3 Disposable Isolation Gowns - ("New York")	30 Cases
J2NG4MSMB (Small)	Nitrile Examination Gloves (SM)	105 Boxes
J2NG4MMDB (Medium)	Nitrile Examination Gloves (MD)	105 Boxes
J2NG4MLGB (Large)	Nitrile Examination Gloves (LG)	105 Boxes
J2NG4MXLB (XL)	Nitrile Examination Gloves (XL)	105 Boxes
J2VG4MSMB (Small)	Vinyl Examination Gloves (SM)	98 Boxes
J2VG4MMDB (Medium)	Vinyl Examination Gloves (MD)	98 Boxes
J2VG4MLGB (Large)	Vinyl Examination Gloves (LG)	98 Boxes
J2VG4MXLB (XL)	Vinyl Examination Gloves (XL)	98 Boxes
J2BHCUS1B	Bouffant Head Covers	25 Boxes
J2BHCCN1B	Bouffant Head Covers - (Imported)	300 Boxes
J2SCUS01B	Shoe Covers	25 Boxes
J2SCCN01B	Shoe Covers - (Imported)	300 Boxes
J2HS10OZC	Hand Sanitizer - 10oz	36 Cases
J2HS02OZC	Hand Sanitizer - 2oz	45 Cases
J2TKT0BSB	Touchless Key Tools	30 Boxes



AMERICAN OVERSIGHT

From: Rachel Knapp <Rachel.Knapp@krqe.com>
Sent: Friday, January 08, 2021 4:13 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: KRQE interview

Hi Commissioner Griffin,

This is Rachel Knapp with KRQE. I tried calling you but the call went directly to voicemail and I couldn't leave a voicemail because the machine said that one wasn't set up.

I'm looking to do an interview with you about some comments you made on the Cowboys For Trump Facebook page.

Deadline is 6pm tonight. Send me an email when you can.

Rachel Knapp
Reporter
KRQE News 13 & Fox New Mexico
www.krqe.com
www.foxnewmexico.com



AMERICAN OVERSIGHT

From: Mary Lou Cooper <mcooper@ksfr.org>
Sent: Wednesday, January 13, 2021 11:30 AM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: KSFR public radio Santa Fe request for interview

Good morning.

I am a reporter with the local Santa Fe public radio station KSFR.

I would like to speak to you regarding Cowboys for Trump protests at the state capitol in the coming days leading up to January 20.

It would be a phone-to-phone interview, and I would like to do it today or Thursday if possible.

Thanks for considering my request,

Mary Lou Cooper
KSFR public radio Santa Fe
mcooper@ksfr.org

AMERICAN OVERSIGHT

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KSFR public radio Santa Fe
mcooper@ksfr.org

AMERICAN OVERSIGHT

From: Alice M Jax <alicejax@gmail.com>
Sent: Friday, January 08, 2021 1:41 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: NMGOP Email

Hello Commissioner,

I received a disturbing email from former congressman Steve Pearce from the NMGOP. The following was my response....

Alice M Jax <alicejax@gmail.com> 11:33 AM (4 minutes ago)

to Republican

I support patriots and the president. We tried every legal avenue to contest a stolen election....where the hell were you all? New Mexico has some suspicions about the validity of this state's elections. I do not support you just so you can keep your comfy lobbyist jobs and will never again. I hope the 80 million Trump Supporters follow suit and you experience what it's like to actually work for a living instead of duping people out of their hard earned money so you can live in a trickle up economy. Don't email me any more with your bullshit. Go Couy. He is my city commissioner. Who the hell are you people? Go Yvette! we need more brave conservatives and less of you.

Sincerely,

Allie Jax

I know you get almost as much shit as President Trump from New Mexico and Alamogordo in particular but there are tons of people who support what you stand for and what you do every day to stand up for America. Thanks, don't give up because I'm not planning on it....and my Trump Flag Just got 10 feet higher!

Allie

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Allie

AMERICAN OVERSIGHT

From: Pamela Mickle <pam@mickle.com>
Sent: Monday, January 11, 2021 11:06 AM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Not peaceful

Mr. Griffin,

I saw your pitiful video from Roanoke after the attack on the Capitol building. You may have been a peaceful protestor but you need to denounce those who were not. You also need to tone down your existential rhetoric stirring and inciting violent attacks. You need to broaden your sources of information so you do not spread lies about China overtaking our country. Your "war" IS with the Democrats and you contributed to people attacking the US Capitol Police with flag poles with American flags. Take some responsibility for this insanity. Stop buying Trump's Big Lie about election fraud.

Pamela Mickle
Las Cruces, NM

AMERICAN OVERSIGHT

From: Pamela Mickle <pam@mickle.com>
Sent: Monday, January 11, 2021 11:06 AM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
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Pamela Mickle
Las Cruces, NM

AMERICAN OVERSIGHT

From: Dunning Kreuger <trexit2020covid45@gmail.com>
Sent: Thursday, January 07, 2021 10:10 AM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Orange letter day

Well it is official. Trump lost and you can go back to living in your mother's basement.

AMERICAN OVERSIGHT

From: tflewis@pvtn.net <tflewis@pvtn.net>
Sent: Sunday, January 03, 2021 7:30 PM EST
To: tflewis@pvtn.net <tflewis@pvtn.net>
Subject: Patriot Meeting

This is the message I received.....

This coming Monday, January 4, at 6 PM at the church of Christ in Cloudcroft is a Patriot meeting for what to do "IF" happens. Military and retired along with some law-enforcement will be there. It's to discuss a plan for if the military troops are deployed into surrounding areas & riots happen here.

We will have a very serious patriot meeting at
Church of Christ, Cloudcroft, 6 PM, Monday.

This is an organization of local patriots, former military and police from our area. Things are about to get worse and we as a community must be prepared. Please spread to fellow Patriots who are serious and realize what is happening and want to come together with others to protect and provide for our community and at least have a plan and coordinate together.. Hope to see you there.

AMERICAN OVERSIGHT

From: Rose Lambert-Sluder <roselambertsluder@gmail.com>
Sent: Saturday, January 09, 2021 9:22 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Please resign

Dear Mr. Griffin,

I am writing to you after watching your chilling video promoting gun violence against members of the U.S. Congress. I respectfully ask you to resign at the earliest possible moment.

Yours,
Rose Lambert-Sluder

AMERICAN OVERSIGHT

From: U.S. Department of Education <ed.gov@public.govdelivery.com>
Sent: Wednesday, January 13, 2021 3:26 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Reminder: Webinar Tomorrow! Learning in a Pandemic

Attention Educators and Families!

Learning Loss Webinar

Please join the U.S. Department of Education for a discussion on the state of student learning during the pandemic and tools that families and teachers can use to support student learning now. This event will educate parents and teachers on the state of learning today and how you can better support your students during the pandemic.

This forum will review the most updated research on the state of student learning today and share personalized platforms you can utilize to support student learning immediately. Institute for Education Sciences (IES) Director Mark Schneider will moderate a discussion with national leaders in the research field, Stanford's Center for Research on Education Outcomes (CREDO) and NWEA, as they review findings on national learning loss. Then, Assistant Secretary for Planning, Evaluation, and Policy Development (OPEPD) Jim Blew will moderate a discussion on the power of individualized learning platforms with two examples for how to approach personalized learning for your students, Gooru and New Classrooms.*

Event Details:

- Thursday, January 14, 2021 from 5:30 PM to 6:30 PM EST (please note start time and time zone).
- You must RSVP to join the forum. Please use the following link to register (if you have already registered you do not need to submit a new registration): https://www.eventbrite.com/e/learning-in-a-pandemic-resources-to-support-students-registration-134526681927
- Upon successful registration, you will receive an email containing a personalized access link.

We hope you can join us in support of your students.

Respectfully,
Office of Planning, Evaluation, and Policy Development
U.S. Department of Education

** The views expressed at this event do not necessarily represent the positions or policies of the U.S. Department of Education (Department). No official endorsement by the Department of any publication, product, commodity, service, or enterprise is intended or should be inferred. This event contains examples of potentially useful information for the participant's convenience. The Department does not control or guarantee the accuracy, relevance, timeliness, or completeness of this non-Department information. The inclusion of these examples is not intended to reflect their importance, nor is it intended to endorse views expressed, or products or services offered. Inclusion of such information does not constitute an endorsement by the Department or a preference for these examples as compared with others that might be presented. Additionally, this discussion should not imply an endorsement of any organization, curriculum, or learning model.*

###

AMERICAN OVERSIGHT

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AMERICAN OVERSIGHT

From: U.S. Department of Education <ed.gov@public.govdelivery.com>
Sent: Wednesday, January 13, 2021 3:26 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Reminder: Webinar Tomorrow! Learning in a Pandemic

Attention Educators and Families!

Learning Loss Webinar

Please join the U.S. Department of Education for a discussion on the state of student learning during the pandemic and tools that families and teachers can use to support student learning now. This event will educate parents and teachers on the state of learning today and how you can better support your students during the pandemic.

This forum will review the most updated research on the state of student learning today and share personalized platforms you can utilize to support student learning immediately. Institute for Education Sciences (IES) Director Mark Schneider will moderate a discussion with national leaders in the research field, Stanford's Center for Research on Education Outcomes (CREDO) and NWEA, as they review findings on national learning loss. Then, Assistant Secretary for Planning, Evaluation, and Policy Development (OPEPD) Jim Blew will moderate a discussion on the power of individualized learning platforms with two examples for how to approach personalized learning for your students, Gooru and New Classrooms.*

Event Details:

- Thursday, January 14, 2021 from 5:30 PM to 6:30 PM EST (please note start time and time zone).
- You must RSVP to join the forum. Please use the following link to register (if you have already registered you do not need to submit a new registration): https://www.eventbrite.com/e/learning-in-a-pandemic-resources-to-support-students-registration-134526681927
- Upon successful registration, you will receive an email containing a personalized access link.

We hope you can join us in support of your students.

Respectfully,
Office of Planning, Evaluation, and Policy Development
U.S. Department of Education

** The views expressed at this event do not necessarily represent the positions or policies of the U.S. Department of Education (Department). No official endorsement by the Department of any publication, product, commodity, service, or enterprise is intended or should be inferred. This event contains examples of potentially useful information for the participant's convenience. The Department does not control or guarantee the accuracy, relevance, timeliness, or completeness of this non-Department information. The inclusion of these examples is not intended to reflect their importance, nor is it intended to endorse views expressed, or products or services offered. Inclusion of such information does not constitute an endorsement by the Department or a preference for these examples as compared with others that might be presented. Additionally, this discussion should not imply an endorsement of any organization, curriculum, or learning model.*

###

AMERICAN OVERSIGHT

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From: Lynden Jones <lynden1211@gmail.com>
Sent: Sunday, January 10, 2021 6:39 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Resign

Mr. Griffin,

I am a 6th generation New Mexican that has family that fought in wars defending our nation from the Civil War to WW1, WW2, Korea, Vietnam and the Middle East conflicts. All proud New Mexicans.

Your support for Donald Trump and what transpired in our Capitol on 06 January 2021 places you in the category of seditionist and traitor, both to the Great state of New Mexico and the United States.

You need to immediately step down and leave the state. You are a disgrace. My uncle was the Catron County sheriff for 25 years. If he were still in office, I'm confident he would work diligently toward your removal.

My friend, the late Governor Bruce King, would have you rode out on a rail. MLG is his friend as well. Best be packing your bags to go home to Texas.

Go on, GET!

AMERICAN OVERSIGHT

From: Kat Daniel <pojoaquekat2002@yahoo.com>
Sent: Thursday, January 14, 2021 3:28 AM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: RESIGN!

To: Couy Griffin

I am one of the hundreds of thousands of volunteers who for weeks or months have called and/or texted hundreds or thousands of potential voters a day across the country to educate them as to their voting rights. I was one tiny cog in this massive effort to GOTV. Do you know what GOTV is? It is an acronym for GET OUT THE VOTE, which is exactly what we did, which is exactly the opposite of what your party does, and that is how I know this was a free and fair election. Because I was one tiny cog in a mammoth voter education machine!

Ironically, we were most likely the reason trump received so many votes too, because we remained nonpartisan in our efforts.

There was no (significant) voter fraud. More people voted for President-elect Joe Biden and Vice-President-elect Kamala Harris!

And you are no patriot, sir. Since there MUST be Democrats in the county where you are supposed to be Commissioner, and you think they are "better off dead," you cannot possibly fairly or democratically represent your county. So RESIGN! You are a source of shame for New Mexico and a scourge on the. nation!

So, so sincerely,
Kathleen Daniel

Sent from Yahoo Mail on Android

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Go on, GET!

AMERICAN OVERSIGHT

From: Thad Clements <wendoverwellness@gmail.com>
Sent: Sunday, January 10, 2021 4:34 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Resign

For the good of your county and this nation, you should resign from your seat. You are unworthy of your office, and should not enjoy the continued honor of holding your post. You threatened bloodshed at the Capitol of the United States, and as such should be considered a traitor to this nation.

Thad A. Clements, MD
Charlotte, NC

Sent from my iPhone=

AMERICAN OVERSIGHT

From: Denise Robles <deniseluciarobles@gmail.com>
Sent: Thursday, January 07, 2021 7:26 AM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
CC: yvette@yvetteherrell.com <yvette@yvetteherrell.com>; steve@gopnm.org <steve@gopnm.org>
Subject: Riot at the Capitol (Were Cowboys for Donnie in Attendance?)

I have been watching the news coverage of the seditious behavior virtually all night. Apologies if I am incorrect, because I am sure, given the quality of the folks in the mob, that there was more than one fur wearing idiot in the 20,000 plus in attendance. But I am making sure to do EVERYTHING I can to encourage the authorities look carefully for you in that group of traitorous trespassers. And I hope and pray there will be serious federal prison time for those identified as breaking in and acting like dangerous, deranged children on television AROUND THE WORLD!

DLR

AMERICAN OVERSIGHT

From: thomasf27@yahoo.com <thomasf27@yahoo.com>
Sent: Friday, January 08, 2021 3:45 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: riot

So proud to have a traitor pushing the storming of OUR HOUSE (not yours) representing New Mexico, you sorry mother fucker.

AMERICAN OVERSIGHT

From: Paul M. Goricki <pmgoricki@gmail.com>
Sent: Sunday, January 10, 2021 1:41 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Shame on You

Mr. Griffin, I've just read your quote in today's New York Times:
"Couy Griffin, 47, a Republican county commissioner from New Mexico, spoke of organizing another Capitol rally soon — one that could result in "blood running out of that building"
Why are you using violent words to pour fuel on the fires of division on our country?
Whatever grievances your "Cowboys for Trump" organization have, I encourage you to protest in a peaceful, legal manner.
For an elected official to use inflammatory language that threatens the center of our government places is reprehensible and unworthy of public office.
Please be careful not to hurt the country you profess to love.

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AMERICAN OVERSIGHT

From: Jim Goodding <jgoodding@hotmail.com>
Sent: Saturday, January 09, 2021 11:53 AM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Shame, shame, shame on you

Mr. Griffin –

How, with a clear conscience can you claim that your rhetoric is not inflammatory? You should be ashamed of encouraging rioting at the Capitol and claiming that the only good democrat is a dead democrat. I am appalled by those statements - your county, our state and my country deserve much better. Shame, shame, shame on you.

AMERICAN OVERSIGHT

From: Stephan Helgesen <stephan@stephanhelgesen.com>
Sent: Thursday, January 14, 2021 9:42 AM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Spam:******, Article: Erasing Donald Trump

Click here to read the article:"Erasing Donald Trump"

Second Opinion Marketing
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AMERICAN OVERSIGHT

From: Stephan Helgesen <stephan@stephanhelgesen.com>
Sent: Tuesday, January 05, 2021 3:20 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Spam:******, Article: Stirring the political pot in Georgia and DC

Click here to read the article:"Stirring the political pot in Georgia and DC"

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Sent: Tuesday, January 05, 2021 3:20 PM EST
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Subject: Spam:******, Article: Stirring the political pot in Georgia and DC

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AMERICAN OVERSIGHT

From: Stephan Helgesen <stephan@stephanhelgesen.com>
Sent: Thursday, January 07, 2021 10:08 AM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Spam:******, Article: Washington's Reichstag moment

Click here to read the article:"Washington's Reichstag moment"

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AMERICAN OVERSIGHT

From: Rethinking Homelessness <info@rethinkinghomelessness.org>
Sent: Tuesday, January 12, 2021 2:06 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Spam:******, LAST DAY TO SIGN UP: Eviction Prevention Webinar

Only 24 Hours Left to Register!

The 2021 Eviction Crisis: Is Your Community Prepared?

*A **Complimentary Webinar** for Mayors, County Officials, and Law Enforcement*

***Date:* Wednesday, January 13, 2021**
***Time:* 1:00 p.m. - 2:00 p.m. ET**

This is an exclusive invitation to mayors, county leaders, and law enforcement officials interested in preventing eviction and homelessness in 2021.

Nearly **1,100** leaders across America have registered for our webinar...Please join them along with new guest speaker **Diane Yentel**, President & CEO of the **National Low Income Housing Coalition**, to learn how leaders like you can take action now to prevent homelessness & eviction in your community this year.

Congress recently extended the **federal moratorium** until the end of January and allocated $25 billion in **rent relief** to prevent thousands of families in communities like yours across America from losing their homes in 2021.

With this in mind, register for our webinar tomorrow where we will share **how your community can leverage new stimulus dollars and develop data-driven strategies to prevent widespread eviction and homelessness in the months ahead.**

Click to RSVP Now!

Webinar Topics

In this presentation, we will explain how your community can:

- **NEW TOPIC: Utilize new federal stimulus resources to support your community's eviction crisis response**
- **Understand how a COVID-19 resurgence could impact your community's ability to help households facing eviction**
- **Use cutting-edge data to identify and target resources to vulnerable populations and minorities at greatest risk of eviction in your area**
- **Create new collaborations with government and landlords to keep your citizens housed and off your streets next year**

Special Guest Speaker

AMERICAN OVERSIGHT

Diane Yentel
President & CEO,
National Low Income Housing Coalition

Diane Yentel is the President and CEO of the National Low Income Housing Coalition and veteran affordable housing policy expert with over two decades of work on affordable housing and community development.

Webinar Host

Andrae Bailey
CEO & Founder,
Rethinking Homelessness

Rethinking Homelessness is a national initiative that works to help communities across America find real and lasting solutions to homelessness.

In 2019 alone, we engaged with hundreds of communities and thousands of leaders to create new strategies to combat homelessness in their regions.

Click to RSVP Now!

Share Your Community's Eviction Best Practices

Click the button below to share your community's eviction prevention strategy with our leaders. The best community examples will be featured during our webinar on Jan. 13 for others to learn from.

Complete Our Survey

Visit our website to learn more:
RethinkingHomelessness.org

Rethinking Homelessness
255 S Orange Ave
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Try email marketing for free today!

AMERICAN OVERSIGHT

From: D.W. <dwdw9988@yahoo.com>
Sent: Sunday, January 10, 2021 3:48 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Spam:******, Native Americans have been here for 12,000 years; your family for 150, so *you* go back to where they came from! You're a traitor, not a patriot.

AMERICAN OVERSIGHT

From: Charles Davis <cdavis@insider.com>
Sent: Thursday, January 14, 2021 12:41 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Spam:******, Request for comment: Bringing guns to DC (Business Insider)

Mr. Griffin,

At today's Otero County commissioners meeting you said you would be bringing your guns to DC for President-elect Joe Biden's inauguration, with one of the guns being on your front passenger seat.

Two questions:

1. Will you be bringing ammunition?

2. DC law states that guns can only be transported in the city if they are inaccessible from the passenger compartment: https://code.dccouncil.us/dc/council/code/sections/22-4504.02.html

Do you believe the 2nd Amendment overrides this law?

Thanks,

Charles

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From: Charles Davis <cdavis@insider.com>
Sent: Thursday, January 14, 2021 12:41 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Spam:******, Request for comment: Bringing guns to DC (Business Insider)

Mr. Griffin,

At today's Otero County commissioners meeting you said you would be bringing your guns to DC for President-elect Joe Biden's inauguration, with one of the guns being on your front passenger seat.

Two questions:

1. Will you be bringing ammunition?

2. DC law states that guns can only be transported in the city if they are inaccessible from the passenger compartment: https://code.dccouncil.us/dc/council/code/sections/22-4504.02.html

Do you believe the 2nd Amendment overrides this law?

Thanks,

Charles

AMERICAN OVERSIGHT

From: Rethinking Homelessness <info@rethinkinghomelessness.org>
Sent: Friday, January 08, 2021 3:17 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Spam:******, WEBINAR: Creating NEW Eviction Prevention Strategies

Only 5 Days Left to Register!

The 2021 Eviction Crisis: Is Your Community Prepared?

*A **Complimentary Webinar** for Mayors, County Officials, and Law Enforcement*

***Date:* Wednesday, January 13, 2021**
***Time:* 1:00 p.m. - 2:00 p.m. ET**

This is an exclusive invitation to mayors, county leaders, and law enforcement officials interested in preventing eviction and homelessness in 2021.

More than **800** leaders across America have registered for our webinar. Please join them along with new guest speaker **Diane Yentel**, President & CEO of the **National Low Income Housing Coalition**, to learn how leaders like you can take action now to prevent homelessness & eviction in your community this year.

Congress recently extended the **federal moratorium** until the end of January and allocated $25 billion in **rent relief** to prevent thousands of families in communities like yours across America from losing their homes in 2021.

With this in mind, register for our webinar tomorrow where we will share **how your community can leverage new stimulus dollars and develop data-driven strategies to prevent widespread eviction and homelessness in the months ahead.**

Click to RSVP Now!

Webinar Topics

In this presentation, we will explain how your community can:

- **NEW TOPIC: Utilize new federal stimulus resources to support your community's eviction crisis response**
- **Understand how a COVID-19 resurgence could impact your community's ability to help households facing eviction**
- **Use cutting-edge data to identify and target resources to vulnerable populations and minorities at greatest risk of eviction in your area**
- **Create new collaborations with government and landlords to keep your citizens housed and off your streets next year**

Special Guest Speaker

AMERICAN OVERSIGHT

Diane Yentel
President & CEO,
National Low Income Housing Coalition

Diane Yentel is the President and CEO of the National Low Income Housing Coalition and veteran affordable housing policy expert with over two decades of work on affordable housing and community development.

Webinar Host

Andrae Bailey
CEO & Founder,
Rethinking Homelessness

Rethinking Homelessness is a national initiative that works to help communities across America find real and lasting solutions to homelessness.

In 2019 alone, we engaged with hundreds of communities and thousands of leaders to create new strategies to combat homelessness in their regions.

Click to RSVP Now!

Share Your Community's Eviction Best Practices

Click the button below to share your community's eviction prevention strategy with our leaders. The best community examples will be featured during our webinar on Jan. 13 for others to learn from.

Complete Our Survey

Visit our website to learn more:
RethinkingHomelessness.org

Rethinking Homelessness
255 S Orange Ave
Suite 104
Orlando, FL 32801

Unsubscribe cgriffin@co.otero.nm.us

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AMERICAN OVERSIGHT

From: Rethinking Homelessness <info@rethinkinghomelessness.org>
Sent: Monday, January 11, 2021 10:06 AM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Spam:******, WEBINAR: Maximizing NEW Stimulus to Prevent Eviction in 2021

Last 48 Hours to Register!

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Office of Intergovernmental Affairs

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AMERICAN OVERSIGHT

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The White House Office of Intergovernmental Affairs

William F. Crozer
Special Assistant to the President & Deputy Director
O: 202-456-8491 | C: 202-881-8545 | E: **William.F.Crozer@who.eop.gov**
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Nick Barbknecht
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Cell 202-881-9124
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Gabby Uli
Associate Director
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Gabriella.M.Uli2@who.eop.gov

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Through the *Governor's Initiative on Regulatory Innovation*, we extended the Administration's deregulatory accomplishments to the State, Local, and Tribal levels and worked alongside our stakeholders to cut red tape, create jobs, and grow economies across the country. Over 700 of you joined us as *champions* of this **Initiative** and worked to advance common sense solutions to occupational licensing and other regulatory barriers impacting the lives of your constituents.

We also worked collaboratively with stakeholders to advance a wide variety of shared priorities. They included the Tax Cuts and Jobs Act, the United States-Mexico-Canada Agreement (USMCA), three United States Supreme Court Justice Confirmations, urban revitalization and rural prosperity through (e.g. opportunity zones and broadband), disaster recovery and resilience, border security, criminal justice reform, education empowerment and school choice, workforce and economic development, combating the opioid epidemic, supporting our Nation's veterans, and countless other issues to uplift the lives of your fellow citizens. To support these priorities and help stakeholders navigate Federal resources and programs, we developed comprehensive intergovernmental guidance, like the **Disaster Recovery & Resilience Guide** and the **Guide to Promoting Rural Prosperity in America**.

AMERICAN OVERSIGHT

With our Nation's federally recognized Tribal governments, we prioritized engagement around shared policies and priorities. Significant engagement areas included missing and murdered indigenous persons through **Operation Lady Justice**, **addressing abuses** in the Indian Health Service (IHS), and **repatriating** culturally important remains and artifacts. IGA also supported the **re-establishment** of the White House Council on Native American Affairs to improve interagency coordination on policies and priorities important to our Tribal partners. Engagement culminated with release of President Trump's policy vision for Indian Country – **Putting America's First Peoples First: Forgotten No More** - highlighted through a White House delegation **visit** to Arizona in October 2020.

In response to natural disasters and other emergencies, IGA supported the Federal government's preparedness, response, and recovery efforts in coordination with stakeholders in impacted States and communities. We worked diligently to ensure open lines of communication at all levels of government, provide pertinent guidance, and help deliver unprecedented financial resources and other support. Our team also supported the President and Senior Administration Officials' travel to impacted communities, such as Lynn Haven, FL, following Hurricane Michael, New Bern, NC following Hurricane Florence, and Paradise, CA following the Camp Fire, to meet directly with you and your constituents.

In response to the COVID-19 pandemic, we organized 49 Governors-only briefing calls, 33 National Briefing calls with State, Local & Tribal leaders, dozens of Tribal-specific calls, and numerous State/Local/Tribal Association briefings. This led the Administration's overarching COVID-19 engagement that totaled more than 1,000 briefings touching over 250,000 contacts with State, Local, and Tribal officials in the most robust Federal-State collaboration in modern American history. We also supported countless White House Coronavirus Task Force and Administration direct interactions with State, Local, and Tribal leaders to assist in their response and recovery efforts. While challenges remain, we hope that our efforts empowered you to better keep your constituents safe, healthy, and informed.

In closing, we thank you - statewide officials, mayors and city council members, county commissioners, state legislators, sheriffs and law enforcement/first responders, Tribal leaders, and countless other stakeholders - for your support, partnership, and most importantly, service in your States and communities. We also want to recognize our past and present colleagues in the White House Office of Intergovernmental Affairs and those across the entire Federal family for their hard work and dedication to you. Our efforts would not have been possible without their support.

With the transition to the next Administration and a new IGA team, we trust that the Office of Intergovernmental Affairs will remain committed to fostering and building the intergovernmental partnership with you, America's State, Local, and Tribal officials. Please note that our team will begin departing on Thursday, January 14. The office will fully transition to the next Administration on Wednesday, January 20. To ensure continuity in COVID-19 coordination, we will share contact information with the incoming IGA team for those stakeholders who previously registered for IGA COVID-19 engagements. We also plan to transition over the IGA.State@who.eop.gov email address.

Sincerely,

The White House Office of Intergovernmental Affairs

William F. Crozer
Special Assistant to the President & Deputy Director
O: 202-456-8491 | C: 202-881-8545 | E: **William.F.Crozer@who.eop.gov**
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Nick Barbknecht
Associate Director
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Associate Director
Cell 202-881-8552
Gabriella.M.Uli2@who.eop.gov

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Office of Intergovernmental Affairs · 1600 Pennsylvania Ave NW · Washington, DC 20500-0003 · USA · 202-456-1111

AMERICAN OVERSIGHT

From: NMBiz <nmbiz@nmbizcoalition.org>
Sent: Tuesday, January 05, 2021 7:05 AM EST
To: Couy Dale Griffin <cgriffin@co.otero.nm.us>
Subject: Spam:*****, Round 2 of $timulus delayed, businesses push back, and more

View this email online if it doesn't display correctly

P.O. Box 95735, Albuquerque, NM 87199, United States

You may unsubscribe or change your contact details at any time.

Dear Couy,

Second round of Paycheck Protection Program stuck in limbo

As part of a $900 billion relief bill signed by President Trump, Congress approved more than $284 billion in new Paycheck Protection Program (PPP) funding and extended the program through March 21, 2021.**However, guidance and regulations related to this second round of PPP have not yet been issued. Before the loans can start going out to businesses in need, the SBA must finalize their guidelines for this second round of relief.** In the meantime, **you can prepare for a new or 2nd PPP loan by gathering the following documentation to help your application process:**

- 2020 vs 2019 Quarterly comparison of Gross revenues (request the DF Qualification Spreadsheet);
- 2019 Tax Returns- Corporate Tax Return or Schedule C of the 2019 IRS form 1040;
- 2019 Bank Statements- February through December
- 2019 Payroll Summary- February through December

The qualifying requirements are:
- Demonstrating at least a 25% reduction in gross receipts during a quarter in 2020 relative to the same quarter in 2019;
- Employing 300 or fewer employees;
- Having used or will use the full amount of their first PPP loan.

The PPP program will broaden the expenses covered with the PPP funds. These expenses include: payroll costs, rent, utilities, mortgage interest, operational expenses, payments to suppliers, property damage.

Program highlights

SBA webpage for PPP

NMBC will continue to monitor the second round of PPP relief funds and notify you as soon as the application process opens

Governor faces another lawsuit over virus restrictions

In the latest attempt to push back on Governor Lujan Grisham's executive overreach, multiple NM businesses are suing to nullify the the emergency health order restricting operations. The lawsuit alleges that the Governor and DOH have imposed arbitrary and unnecessary restrictions for the pandemic, and seeks to have the US District Court override the Governor's executive orders.

In addition to overturning the Governor's orders, the lawsuit also seeks to limit any future public health orders to “an extremely limited period of time” unless authorized by the Legislature. The suit also includes a request for plaintiffs to be compensated for income lost due to the lockdowns. Click HERE to read more.

AMERICAN OVERSIGHT

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How your Congressional Delegates voted

For the week ending January 1st, your New Mexico Congressional Delegates voted on increasing stimulus checks to $2,000 (which was blocked), and overriding President Trump's veto of the military budget in both the House and Senate. Click here to read more.

NMBC depends on the support of New Mexicans like you. Help us continue our work.

INVEST HERE TODAY!

Contact NMBC at (505) 836-4223 or nmbiz@nmbizcoalition.org for more information.

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Sent: Tuesday, January 12, 2021 7:05 AM EST
To: Couy Dale Griffin <cgriffin@co.otero.nm.us>
Subject: Spam:*****, What will NM Legislators do next? Here's a hint...

View this email online if it doesn't display correctly

P.O. Box 95735, Albuquerque, NM 87199, United States

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Dear Couy,

Join us for a virtual Pre-Legislative BASH on Friday at 10AM

New Mexico's 60 day Legislative Session begins in one week from today on January 19th. But like most things lately, this year's session will feature some major changes including banning members of the public from attending. As businesses across the state struggle to remain open and provide employment to New Mexican families, a voice for our community of job creators is needed more than ever. **No matter the obstacles of this remote session, you can rest assured that NMBC will be doing our utmost to fight for common sense legislation that promotes a healthy business climate in the state and elected accountability.**

Join us on Friday at 10AM for a virtual Pre-Legislative Session BASH (Business and Social Hour)*

Click here and register for free to join the BASH

We'll be providing an insightful look at what to expect in the upcoming legislative session and how NMBC will be there to keep YOU in the loop for need to know information and critical 'Calls to Action.'

*Registration required to attend

Second round of Paycheck Protection Program is here

The New Mexico Economic Development Department (NM EDD) is hosting a webinar for details and questions on the second round of PPP loans at 11:30 a.m. on Friday Jan. 15. A total of $284 billion is available nationwide, with $35 billion specifically for first-time PPP borrowers. So if you missed out on the initial run of PPP loans, now is your chance to get to the front of the line. For more information on PPP loans and to sign up for the webinar, click the link below to read the press release from NM EDD.

NM EDD Press Release

Statewide sick leave and other harmful legislation in the works

A recently filed house bill in the upcoming legislative session would mandate that employers begin providing earned sick leave to full-time, part-time, seasonal and temporary workers. And get this, leave accrual begins commencing upon the first day of work. Adding insult to injury, the bill was proposed mere days after the state raised the minimum wage, and puts additional demands on local businesses when they are already stretched thin due to pandemic restrictions. **NMBC President and CEO Carla Sonntag spoke with KRQE News 13 to address the bill and its impact on the business community.**

That's just one of over 60 bills pre-filed by legislators that include reckless and short sighted initiatives like fracking bans, marijuana legalization, and a plunder of the Land Grant Permanent Fund. NMBC has been rallying our forces and preparing for the 60 day marathon session in defense of fiscal restraint, elected accountability and power to the people.

We provided legislators with a roadmap to help improve our state – beginning with legislation to regain the balance of power we've seen eroded under 'emergency' powers given to the governor. You can read our 2021 legislative and policy positions HERE. **If you are not already an NMBC member we encourage you to join us as we fight for smart legislation, deregulation and a business environment that helps New Mexico thrive and provide for our people.** Now is the time to stand united because together we have the power!

Take a stand with NMBC and join today!

How your Congressional Delegates voted

AMERICAN OVERSIGHT

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For the week ending January 8th, your New Mexico Congressional Delegates voted on objections to electoral votes from Arizona and Pennsylvania in both the house and senate. Congress also adopted additional House rules. Click HERE to read more.

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AMERICAN OVERSIGHT

From: White House Office of Intergovernmental Affairs <IGA.state@who.eop.gov>
Sent: Sunday, January 10, 2021 12:54 PM EST
To: Griffin Couy <cgriffin@co.otero.nm.us>
Subject: Spam:*****, White House IGA Weekly Recap: 33rd COVID-19 National Briefing Call

Office of Intergovernmental Affairs

White House IGA Weekly Recap

for State, Local, and Tribal officials | January 8, 2021

On behalf of the White House Office of Intergovernmental Affairs (IGA), we are pleased to provide you with a readout of this week's 33rd COVID-19 National Briefing Call with Senior Administration Officials.

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Readout from the 33rd National COVID-19 Briefing Call

Thank you for your efforts in the whole-of-America approach to responding to COVID-19. In addition to this week's recap, we would like to highlight several additional items and announcements.

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Image

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Participants on the January 6th National COVID-19 Briefing Call included:

AMERICAN OVERSIGHT

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- Governor Jim Justice, *State of West Virginia*

HHS Secretary Alex Azar: **It's important to continue taking steps to protect ourselves & loved ones:**
✔Wash your hands
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On December 29, 2020, the Treasury Department and the Internal Revenue Service announced that it began delivering a second round of **Economic Impact Payments** to millions of Americans as part of the implementation of the Coronavirus Response and Relief Supplemental Appropriations Act of 2021. The initial direct deposit payments began that night with paper checks to follow in the weeks ahead. This second round of payments will provide critical economic support to those who, through no fault of their own, have been adversely impacted by the COVID-19 pandemic. Read more: **Treasury Is Delivering Millions of Economic Impact Payments by Prepaid Debit Card**. You and your constituents may check the status of payments at **IRS.gov/GetMyPayment**. For more information about Economic Impact Payments, please visit **IRS.gov/EIP**.

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Ambassador Deborah Birx, *White House Coronavirus Task Force Coordinator*: Dr. Birx provided a brief recap on her travel over the past year. She travelled the country consulting with medical professionals in every corner of States from coast to coast to help them with their pandemic response.

Dr. Birx also provided an update on trends we are currently seeing across the nation. She noted that more testing is being conducted, which is driving the high test positivity. The rate of rise in COVID-19 cases is about 2 times more than this past spring and summer. We are also possibly seeing the United Kingdom's variant that could have a higher rate of transmission. Overall, much more aggressive actions need to take place as 30 states are now seeing high rates of hospitalizations, particularly in AZ, CA, OK, SC, and NV to name a few. Dr. Birx's final thought on the call was that it is important for states to have pro-active vaccination plans in place for young individuals because they are often spreading the virus even unknowingly.

ADM Brett Giroir, *Assistant Secretary of Health, HHS*: ADM Giroir provided an update on testing and protecting our most vulnerable citizens. Approximately 251 million tests have been completed nationally with likely another 70-80% of the tests not yet reported to the CDC. The Federal Government has the capacity to provide 170 million tests during the month of January alone and a significant amount of more tests will need to be used by the end of the month.

Additionally, as of January 5, 2021, 310 tests and sample collection devices have been authorized by the FDA under emergency use authorizations (EUAs). These include 235 molecular tests and sample collection devices, 64 antibody tests, and 11 antigen tests. There are 32 molecular authorizations that can be used with home-collected samples. There is one molecular prescription at-home test, one antigen prescription at-home test, and one over-the-counter (OTC) at-home antigen test.

Paul Mango, *Deputy Chief of Staff for Policy, HHS* & Lt. General Paul Ostrowski, *Principal Military Deputy to the Assistant Secretary of the Army & Director of the Army Acquisition Corps*

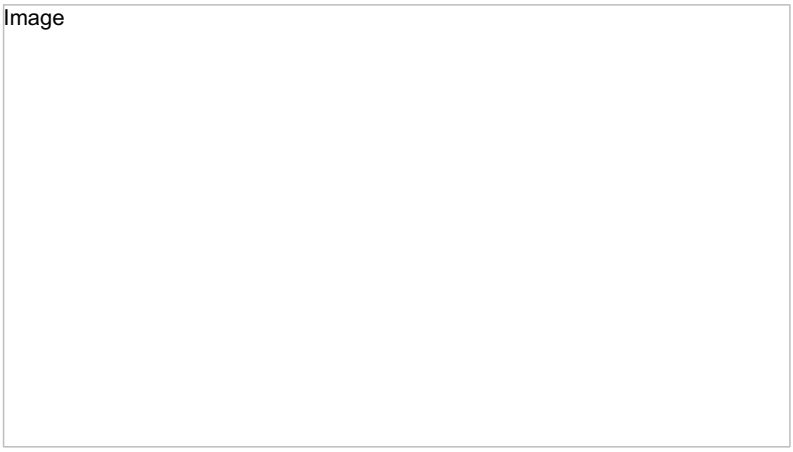
As key leaders in the operations and logistics of Operation Warp Speed, Lt. General Ostrowski and Paul Mango discussed the whole-of-America response to the COVID-19 pandemic which requires coordinated reporting to track and analyze data. This data is reported to state and jurisdictional health departments in accordance with applicable state or local law and in accordance with the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

AMERICAN OVERSIGHT

The HHS Protect Public Data Hub provides through up-to-date information on hospital reporting, therapeutics, and national testing.

☐ **Read More:** **More Than 15.9 Million Shots Given: Covid-19 Vaccine Tracker, The U.S. has administered 5.48 million doses; Europe's rollout begins**

☐ **Watch:** **January 6 update from General Gustave Perna and HHS Secretary Alex Azar on Operation Warp Speed.**



On Thursday, January 7, 2021, the Department of Health and Human Services (HHS) announced two upcoming actions by the Centers for Disease Control and Prevention (CDC) to provide **more than $22 billion in funding to states, localities, and territories in support of the nation's response to the COVID-19 pandemic**, as directed by the Coronavirus Response and Relief Supplemental Appropriations Act.

Funding will provide critical support for testing and vaccination-related activities to jurisdictions before January 19, 2021:

- More than $19 billion will be allocated to jurisdictions through the existing CDC Epidemiology and Laboratory Capacity (ELC) cooperative agreement. These awards will support testing, contract tracing, surveillance, containment, and mitigation to monitor and suppress the spread of COVID-19. Award recipients will include 64 jurisdictions including all 50 states, the District of Columbia, five major cities, and U.S. territories/islands. Consistent with Congressional direction, funds will be allocated by a population-based formula.
- Over $3 billion will be made available in an initial award to jurisdictions through the existing CDC Immunization and Vaccines for Children cooperative agreement. These awards will support a range of COVID-19 vaccination activities across jurisdictions. Award recipients will include 64 jurisdictions including all 50 states, the District of Columbia, five major cities, and U.S. territories/islands. Consistent with Congressional direction, funds will be allocated by a population-based formula.

Surgeon General Jerome Adams: **OWS will send vaccinations to where States want to and tell us. Many have not only expanded to phases beyond 1A but are using pharmacy chains and other sites to expand vaccination locations. We will continue to work with States to expand and accelerate vaccinations!**

Governor Jim Justice, *West Virginia*: The Governor discussed practices implemented in West Virginia that other State and local leaders may want to consider for vaccine distribution rates. Governor Justice noted that he immediately directed first responders administering COVID-19 tests to utilize local pharmacies. He also ensured the state established schools in vaccinating teachers and school personnel in order to allow kids to return to school sooner. The Governor said the key is to keep the vaccine distribution messaging and coordination simple and focus on getting vaccines actually administered to senior communities.

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AMERICAN OVERSIGHT

From: White House Office of Intergovernmental Affairs <IGA.state@who.eop.gov>
Sent: Friday, January 08, 2021 5:14 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Spam:*****, White House IGA Weekly Recap: 33rd COVID-19 National Briefing Call

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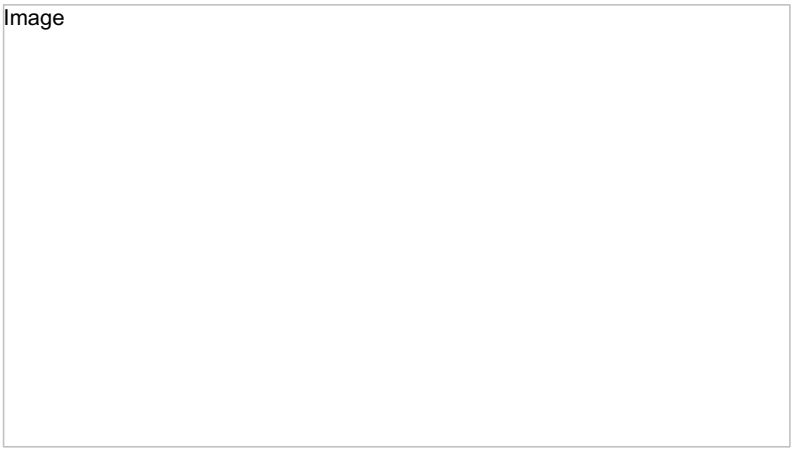
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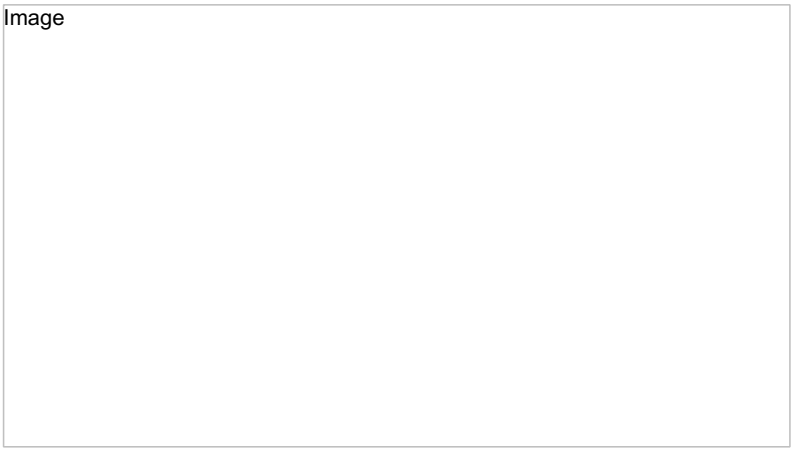
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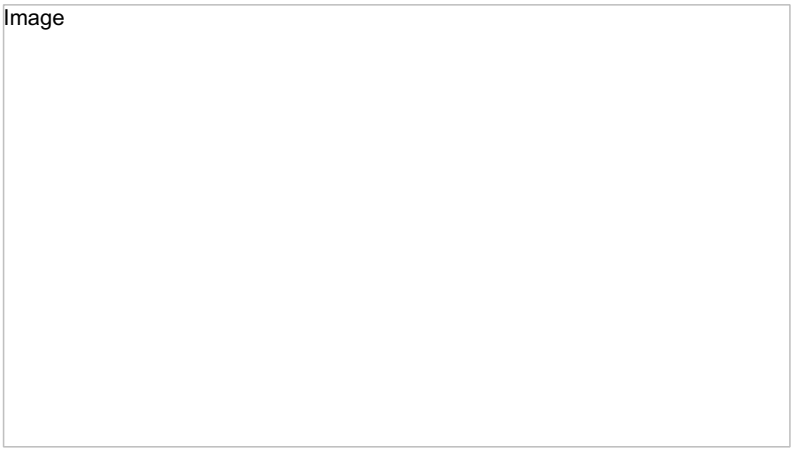
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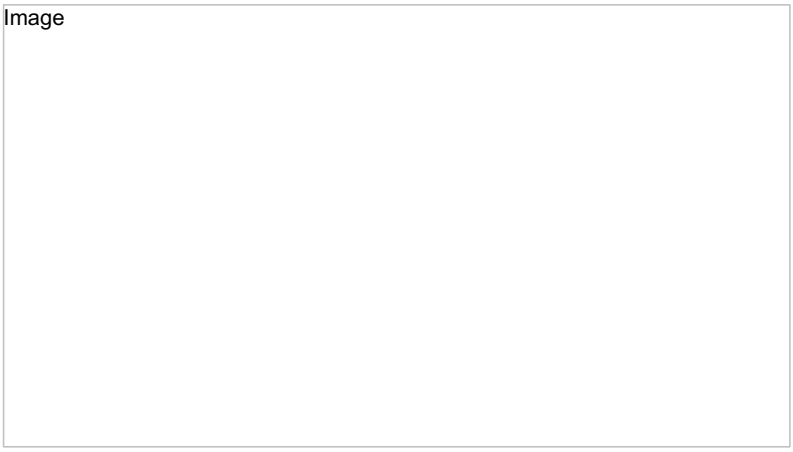
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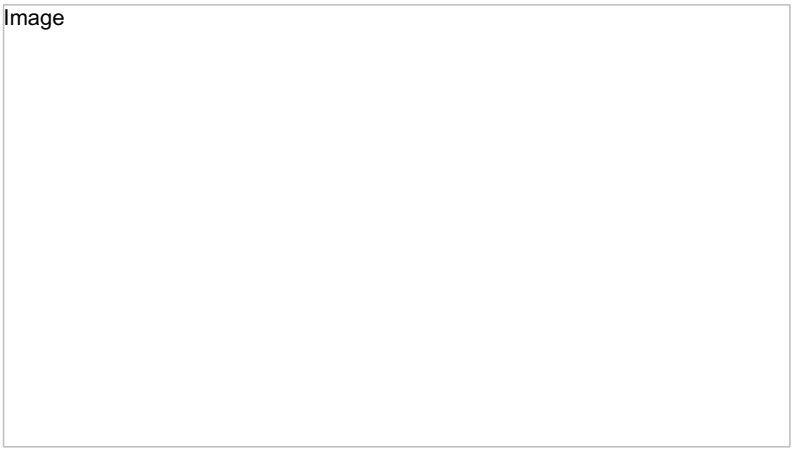
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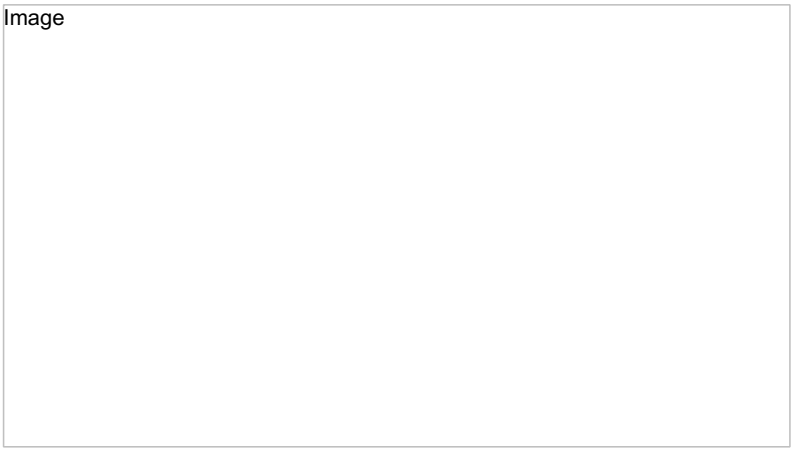
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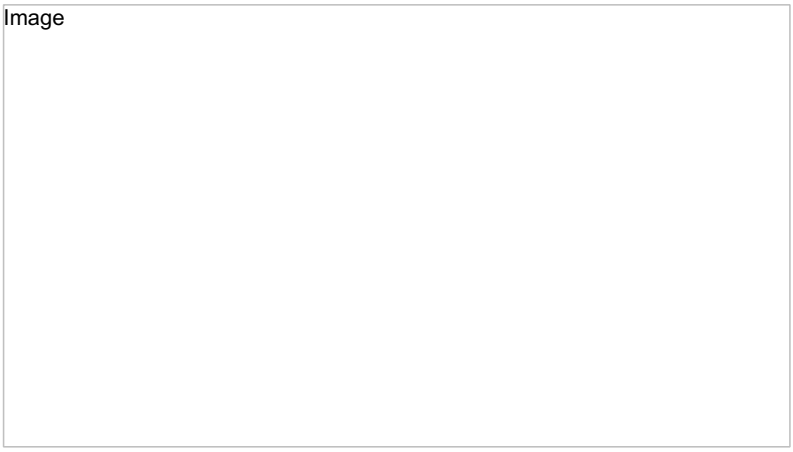
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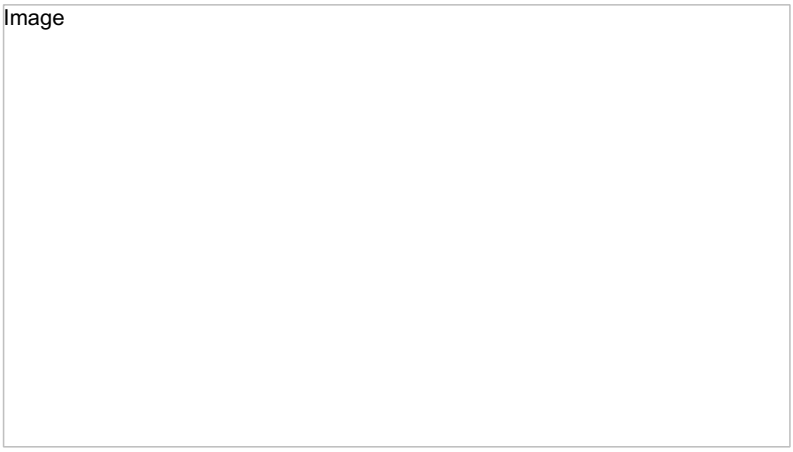
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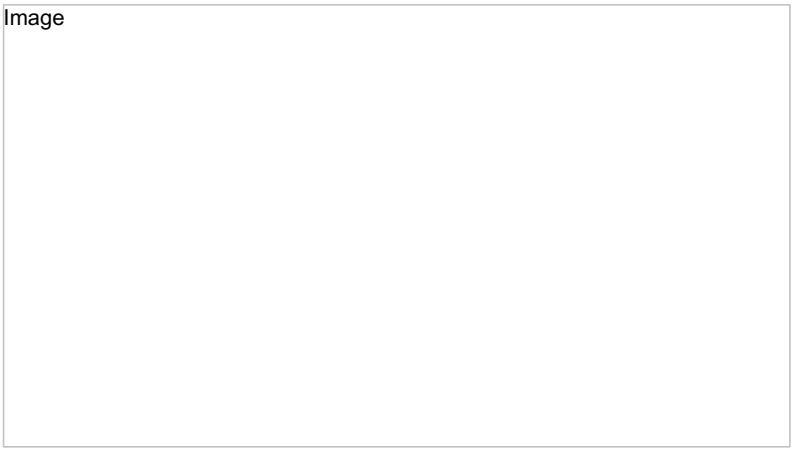
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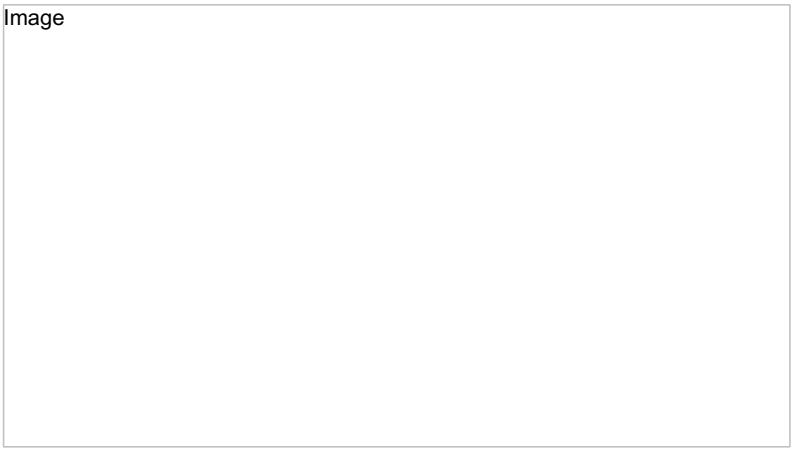
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Sent: Friday, January 08, 2021 5:14 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Spam:*****, White House IGA Weekly Recap: 33rd COVID-19 National Briefing Call

Office of Intergovernmental Affairs

White House IGA Weekly Recap

for State, Local, and Tribal officials | January 8, 2021

On behalf of the White House Office of Intergovernmental Affairs (IGA), we are pleased to provide you with a readout of this week's 33rd COVID-19 National Briefing Call with Senior Administration Officials.

We appreciate your partnership and will continue to share pertinent updates as they become available. As a reminder, IGA is the primary liaison between the White House and America's State and Local elected officials and Tribal governments. Please do not hesitate to reach out if we can ever be of assistance.

Sincerely,

The White House Office of Intergovernmental Affairs

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Readout from the 33rd National COVID-19 Briefing Call

Thank you for your efforts in the whole-of-America approach to responding to COVID-19. In addition to this week's recap, we would like to highlight several additional items and announcements.

- On January 5th, Vice President Mike Pence led a White House Coronavirus Task Force Meeting. The Task Force meeting focused primarily on vaccine distribution and implementation.
- HHS Secretary Alex Azar **renewed** the COVID-19 national public health emergency declaration, effective January 21, 2021. Read more about the declaration **here**.
- FEMA's Public Assistance program is supporting vaccine distribution and administration. Learn more **here**.
- SBA, in consultation with Treasury, announced that the Paycheck Protection Program (PPP) will reopen the week of January 11 for new borrowers and certain existing PPP borrowers. Read more **here**.
- The Centers for Disease Control and Prevention launched a vaccination data page with jurisdiction-level data. The page tracks the total number of COVID-19 vaccines administered in the United States. You can find the tracker **here**.
- The U.S. Small Business Administration **announced** that the deadline to apply for the Economic Injury Disaster Loan (EIDL) program for the COVID-19 pandemic disaster declaration is extended through December 31, 2021.
- The U.S. Department of Education **announced** more than $4 Billion in emergency education grants for Governors to help students continue learning.
- HHS **finalizes** unprecedented regulatory reform through retrospective review - new rule requires Department to assess its regulations every 10 years

Image

Vice President Mike Pence hosts Coronavirus Task Force Meeting on January 5th.

Participants on the January 6th National COVID-19 Briefing Call included:

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- Dan Kowalski, *Counselor to the Secretary of the Treasury*
- Ambassador Deborah Birx, *M.D., White House Coronavirus Task Force Coordinator*
- ADM Brett Giroir, *Assistant Secretary of Health, HHS*
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- Lt. General Paul Ostrowski, *Principal Military Deputy to the Assistant Secretary of the Army & Director of the Army Acquisition Corps*
- Governor Jim Justice, *State of West Virginia*

HHS Secretary Alex Azar: **It's important to continue taking steps to protect ourselves & loved ones:**
✔Wash your hands
✔Watch your distance
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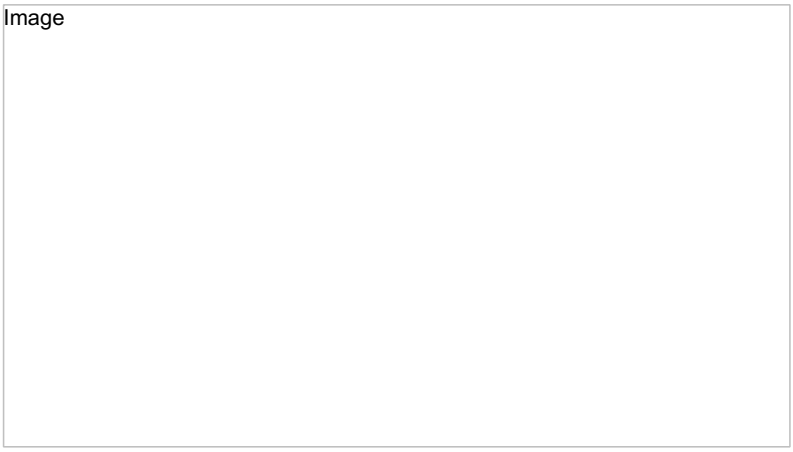
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Sent: Monday, January 04, 2021 2:04 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Spam:*****, ☎ White House IGA COVID-19 Call Invite White House IGA Weekly Recap

Office of Intergovernmental Affairs

White House IGA Weekly Recap

for State, local, and Tribal officials | January 4, 2020

On behalf of the White House Office of Intergovernmental Affairs (IGA), we want to wish you a Happy New Year. We are pleased to provide you with the below top-line update of last week's resources, news, and guidance from the Trump Administration and Federal partners. You will also find a invitation for this week's White House IGA National COVID-19 Briefing Call. We will be joined by Senior Administration Officials from the White House Coronavirus Task Force and Operation Warp Speed for a comprehensive COVID-19 response and coordination update.

National COVID-19 Briefing Call Registration ☎
Date: Wednesday, January 6, 2021
Time: 1:00 PM Eastern (please note start time and time zone)
Call-In Registration: CLICK HERE (If you have previously registered for this call, you do not need to re-register)
Note: Call-in lines are limited. RSVP's will be allocated in the order they are received. You must register to join the call.

First Lady Melania Trump: **As 2020 ends, we remember the loved ones lost & give thanks to our leaders, frontline workers & others who have come together to fight the global pandemic. The resilience of our country is strong. I send my best wishes for a #NewYear full of health & peace.**

This week's recap includes:

- COVID-19 Response and Coordination Update
- Federal Appropriations, COVID-19 Relief Bills Signed
- Hospital Price Transparency Rule Upheld, Implemented
- Executive Order on Expanding Educational Opportunity Through School Choice
- President's Commission on Law Enforcement and the Administration of Justice - Report Released
- Operation Legend - Fighting Violent Crime and Delivering Results

We appreciate your partnership over the past four years and are thankful for the opportunity to continue to work with you in 2021. Please do not hesitate to reach out if we can ever be of assistance.

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The White House Office of Intergovernmental Affairs

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COVID-19 Response and Coordination Update

On behalf of the White House and entire Administration, we appreciate your partnership in the most robust Federal-State collaboration in modern American history to respond to COVID-19. Below, find pertinent announcements regarding Federal support and coordination efforts.

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Operation Warp Speed (COVID-19 Vaccines)

The U.S. Department of Health & Human Services Provides Operation Warp Speed / Vaccine Distribution Update (December 29, 2020) (**Tweet**)

- We have now allocated 19.88M first doses for delivery, with second doses on hand to be shipped in a few weeks, getting us to the goal of having enough doses available by the end of year for 20M Americans
- Data reported to the CDC significantly lags actual vaccinations administered. The CDC website says "A large difference between the number of doses distributed and the number of doses administered is expected at this point in the COVID vaccination program."
- We are grateful for the work jurisdictions and vaccinators are doing over the holidays, and we're working with jurisdictions who are already executing plans to ramp up rate of vaccinations and expand administration sites
- CDC **published** a COVID-19 vaccination playbook for jurisdictions in September, and has been working with them on their vaccination plans ever since -OWS is providing jurisdictions kits with the needed needles, syringes, and other supplies for vaccinations along with the vaccines
- CDC issued **$200M** to jurisdictions for flu/COVID vaccinations in September -CDC issued another **$140M** to jurisdictions for COVID vaccinations in December
- Across OWS, the DPA has been used 18 times. We have not hesitated to use the DPA, and Secretary Azar has made it clear he'll use every power at his disposal to ramp up vaccine production safely. There are, however, physical and operational limits to safe, quality, vaccine production.
- Vaccines are already free for Americans, thanks to the work of the Trump Administration -HHS has already launched a massive campaign to increase vaccine confidence and encourage uptake
- The first U.S. COVID-19 vaccine authorization was on **December 11** and the first U.S. COVID-19 vaccination was 15 days ago, on **December 14**
- As a reminder, distributing millions of safe and effective vaccines within a year after a novel virus hit our shores is a historic and remarkable accomplishment

☐ **HHS Secretary Alex Azar**: **Operation Warp Speed delivered by the end of 2020**
✔ 2 @US_FDA-authorized vaccines
✔ 5 vaccine candidates in Phase 3 clinical trials
✔ 20 million first doses allocated, with the second doses on hand ready to be shipped a few weeks later.

HHS/DOD Announce Additional Vaccine Procurement: On December 23, the U.S. Department of Health & Human Services and the Department of Defense **announced** the purchase of an additional 100 million doses of COVID-19 vaccine from Pfizer. Pfizer will deliver at least 70 million doses by June 30, 2021 and the full 100 million doses no later than July 31, 2021. On December 11, the Trump Administration **announced** the purchase of an additional 100 million doses of Moderna's COVID-19 vaccine.

CDC Launches COVID-19 Vaccine Data Tracker

The Centers for Disease Control and Prevention launched a vaccination data page with jurisdiction-level data. The page tracks the total number of COVID-19 vaccines administered in the United States. You can find the tracker **here**. Note that data reported to the CDC significantly lags actual vaccinations administered, or as stated by the CDC, "A large difference between the number of doses distributed and the number of doses administered is expected at this point in the COVID vaccination program."

As a reminder, the 64 jurisdictions - which encompasses all 50 States, 8 U.S. territories, and six major metropolitan areas - as well as five federal agencies - including the Indian Health Service, Department of Defense, and Department of Veterans Affairs - are responsible for administering vaccines. Each week, as doses are released by companies for distribution, planes and trucks transport the vaccine to States and jurisdictions across the country. Learn more about the distribution process **here**. Find distribution plans for all 64 jurisdictions **here**, the Indian Health Service **here**, and the Department of Veterans Affairs **here**. Local officials should coordinate with their respective States on any vaccine allocation and/or distribution questions.

5th COVID-19 Vaccine Candidate Begins Phase 3 Clinical Trials

On Monday, December 28, The National Institutes of Health announced that a 5th COVID-19 vaccine candidate funded by NIH began enrollment for its Phase 3 clinical trial. The vaccine, developed by Novavax, will enroll up to 30k volunteers from the U.S. and Mexico.

☐ **HHS Secretary Alex Azar**: **With Phase 3 clinical testing of the Novavax COVID-19 vaccine candidate beginning in the U.S., we have now had five vaccine candidates in the #OperationWarpSpeed portfolio launch Phase 3 clinical trials before the end of 2020.**

The trial is being conducted in collaboration with **Operation Warp Speed** (OWS), a multi-agency collaboration overseen by HHS and the Department of Defense that aims to accelerate development, manufacture and distribution of medical countermeasures for COVID-19. Some of the U.S. trial sites participating are part of the NIAID-supported **COVID-19 Prevention Network** (CoVPN). The CoVPN

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includes existing NIAID-supported clinical research networks with infectious disease expertise and was designed for rapid and thorough evaluation of vaccine candidates and monoclonal antibodies for preventing COVID-19.

Read More: Phase 3 Trial of Novavax Investigational COVID-19 Vaccine Opens

Testing Update

As of Dec. 28, 309 tests and sample collection devices are authorized by the FDA under emergency use authorizations (EUAs). These include 235 molecular tests and sample collection devices, 63 antibody tests, and 11 antigen tests. There are 32 molecular authorizations that can be used with home-collected samples. There is one molecular prescription at-home test, one antigen prescription at-home test, and one over-the-counter (OTC) at-home antigen test.

Admiral Brett Giroir (Assistant Secretary for Health) : We continue to increase the capacity/diversity of #COVID19 testing. in December, we have available > 180 million tests. We have surpassed 2 million tests reported per day on 7 different dats. We have distributed > 122 million #BinaxNOW rapid tests to states and vulnerable.

Additional Updates

Department of Veterans Affairs Vaccine Update: During the week of December 20, the Department of Veterans Affairs (VA) announced the expansion of its COVID-19 vaccination program to an additional 128 sites. On December 31, Secretary Robert Wilkie announced that the VA has administered initial COVID-19 vaccine doses to more than 5,000 veterans residing in its Community Living Centers and Spinal Cord Injury and Disorders Centers and more than 50,000 health care employees. Learn more about COVID-19 vaccines and the VA here.

SBA Extends COVID-19 Economic Injury Disaster Loan Application Deadline: On December 30, 2020, the U.S. Small Business Administration announced that the deadline to apply for the Economic Injury Disaster Loan (EIDL) program for the COVID-19 pandemic disaster declaration is extended through December 31, 2021. To date, the SBA has approved $197 billion in low-interest loans which provides working capital funds to small businesses, non-profits and agricultural businesses make it through this challenging time.

The Doctor Is In: U.S. Surgeon General Jerome Adams released a new video answering a common COVID-19 question – how many shots of the vaccine are needed? Over the next few weeks, the Surgeon General will be releasing videos answering the most common COVID-19 questions.

Vaccine Surveillance: FDA Commissioner Dr. Stephen Hahn explains in a new video how all vaccines, including the COVID-19 vaccines, must adhere to specific FDA guidelines for safety, including ongoing surveillance.

Colleges, Universities, and Higher Learning: CDC updated information for colleges and universities to plan, prepare, and respond to COVID-19.

Considerations for Retirement Communities and Independent Living Facilities: CDC updated information on preventing the spread of COVID-19 in retirement communities and independent living facilities.

Considerations for Community-Based Organizations: As some community-based organizations (CBOs) begin to resume or increase their level of activities, CDC offers the following considerations for ways these organizations can help protect individuals and communities and slow the spread of COVID-19.

Frequently Asked Questions about COVID-19 Vaccination: CDC updated FAQS about COVID-19 vaccination.

Federal Appropriations, COVID-19 Relief Bills Signed

On December 27, 2020, President Trump signed into law the Consolidated Appropriations Act of 2021, providing $1.4 trillion for the fiscal year ending September 30, 2021. In addition to funding the Federal government, the act delivers coronavirus emergency response and relief.

With the signing, the President released the following statement:

I will sign the Omnibus and Covid package with a strong message that makes clear to Congress that wasteful items need to be removed. I will send back to Congress a redlined version, item by item, accompanied by the formal rescission request to Congress insisting that those funds be removed from the bill

I am signing this bill to restore unemployment benefits, stop evictions, provide rental assistance, add money for PPP, return our airline workers back to work, add substantially more money for vaccine distribution, and much more.

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 Read More: [Statement from the President]

Treasury and IRS Begin Delivering the Second Round of Economic Impact Payments to Millions of Americans

The Treasury Department and the Internal Revenue Service will begin delivering a second round of Economic Impact Payments to millions of Americans as part of the implementation of the Coronavirus Response and Relief Supplemental Appropriations Act of 2021. The initial direct deposit payments began arriving as early as December 29 for some and will continue this week. Paper checks began to be mailed on Wednesday, December 30. This second round of payments will provide critical economic support to those who, through no fault of their own, have been adversely impacted by the COVID-19 pandemic.

Eligible individuals will receive an Economic Impact Payment of up to $600 for individuals or $1200 for married couples and up to $600 for each qualifying child. Generally, if you have adjusted gross income for 2019 up to $75,000 for individuals and up to $150,000 for married couples filing joint returns and surviving spouses, you will receive the full amount of the second payment. For filers with income above those amounts, the payment amount is reduced.

This second round of payments will be distributed automatically, with no action required for eligible individuals. If additional legislation is enacted to provide for an increased amount, Economic Impact Payments that have been issued will be topped up as quickly as possible.

The swift issuance of this second round of payments follows the successful delivery of more than $270 billion in CARES Act Economic Impact Payments earlier this year, providing crucial economic support to nearly 160 million Americans.

Eligible individuals may check the status of payments at **IRS.gov/GetMyPayment**. For more information about Economic Impact Payments, please visit **IRS.gov/EIP**.

 Read More: [Treasury and IRS Begin Delivering the Second Round of Economic Impact Payments to Millions of Americans]

Appropriations Bill Enhances Conservation, Outdoor Recreation & Wildfire Prevention

President Trump has made enhancing our nation's conservation initiatives a top priority, signing several historic conservation bills, including the John D. Dingell, Jr. Conservation, Management, and Recreation Act and the Great American Outdoors Act. Unlike other Administration's before it, the Trump Administration succeeded in enacting permanent full and mandatory funding for the Land and Water Conservation Fund and put in place funding to address the long discussed but never solved the problem of the maintenance backlog at our national parks and other public lands. The President also opened or expanded 4 million acres of land to new hunting and fishing opportunities, recovered the most endangered or threatened species in history for the first term of an Administration and treated 5.4 million acres of land to prevent wildfires – a 49 percent increase in comparison to the last 4 years of the previous Administration.

Here are some notable highlights in the Consolidated Appropriations Act of 2021 that Interior supported to improve conservation:

- **Great American Outdoors Act** – Provides full funding through the National Parks and Public Land Legacy Restoration Fund for priority projects addressing the maintenance backlog at national parks, wildlife refuges, public lands and American Indian schools and full funding through the Land and Water Conservation Fund to protect and conserve lands and waters across the country as identified by Interior.
- **Wildfire Management** – Provides $992.6 million ($40.3 million more than 2020) for Interior wildfire management activities, including fire preparedness, fire suppression, fuels management, burned-area rehabilitation, fire facilities and fire science, in addition to $310 million ($10 million more than 2020) for the Wildfire Suppression Operations Reserve Fund. The funding would allow Interior to provide grants to train non-Federal fire departments and similar groups to fight wildfires.
- **National Recreation and Preservation** – Provides two-year funding for the National Recreation and Preservation Account, allowing the National Park Service to more efficiently and effectively manage available resources and adjust for disruptions in a fiscal year.
- **Sage Grouse** – Provides $74 million for sage-grouse conservation.
- **Long Bridge Project** – Permits the National Park Service to convey lands for purposes of transportation and recreation for the Long Bridge project.
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 Read More: [President Trump Signs Omnibus Spending and COVID Relief Bill, Uplifting American Families, Investing in American Infrastructure and Enhancing American Conservation]

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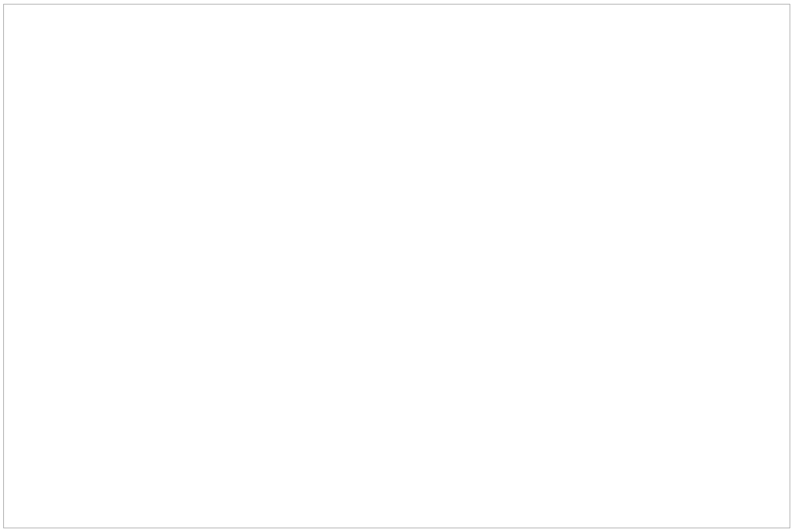
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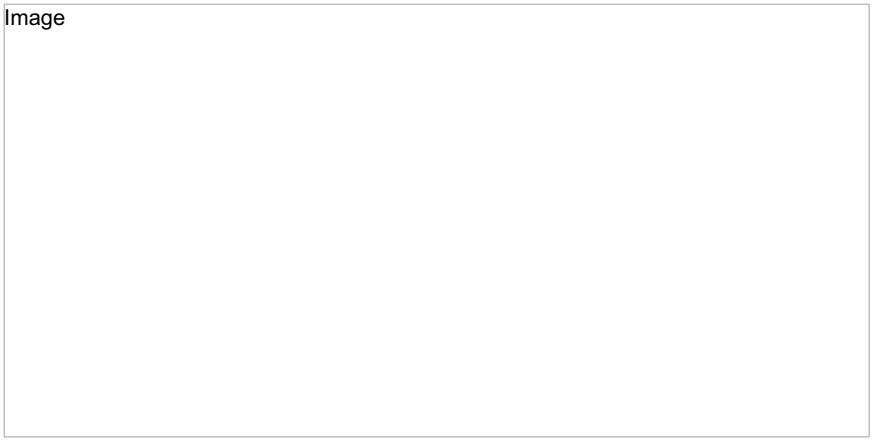


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To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Spam:*****, ☎ White House IGA COVID-19 Call Invite White House IGA Weekly Recap

Office of Intergovernmental Affairs

White House IGA Weekly Recap

for State, local, and Tribal officials | January 4, 2020

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COVID-19 Response and Coordination Update

On behalf of the White House and entire Administration, we appreciate your partnership in the most robust Federal-State collaboration in modern American history to respond to COVID-19. Below, find pertinent announcements regarding Federal support and coordination efforts.

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Operation Warp Speed (COVID-19 Vaccines)

The U.S. Department of Health & Human Services Provides Operation Warp Speed / Vaccine Distribution Update (December 29, 2020) (**Tweet**)

- We have now allocated 19.88M first doses for delivery, with second doses on hand to be shipped in a few weeks, getting us to the goal of having enough doses available by the end of year for 20M Americans
- Data reported to the CDC significantly lags actual vaccinations administered. The CDC website says "A large difference between the number of doses distributed and the number of doses administered is expected at this point in the COVID vaccination program."
- We are grateful for the work jurisdictions and vaccinators are doing over the holidays, and we're working with jurisdictions who are already executing plans to ramp up rate of vaccinations and expand administration sites
- CDC **published** a COVID-19 vaccination playbook for jurisdictions in September, and has been working with them on their vaccination plans ever since -OWS is providing jurisdictions kits with the needed needles, syringes, and other supplies for vaccinations along with the vaccines
- CDC issued **$200M** to jurisdictions for flu/COVID vaccinations in September -CDC issued another **$140M** to jurisdictions for COVID vaccinations in December
- Across OWS, the DPA has been used 18 times. We have not hesitated to use the DPA, and Secretary Azar has made it clear he'll use every power at his disposal to ramp up vaccine production safely. There are, however, physical and operational limits to safe, quality, vaccine production.
- Vaccines are already free for Americans, thanks to the work of the Trump Administration -HHS has already launched a massive campaign to increase vaccine confidence and encourage uptake
- The first U.S. COVID-19 vaccine authorization was on **December 11** and the first U.S. COVID-19 vaccination was 15 days ago, on **December 14**
- As a reminder, distributing millions of safe and effective vaccines within a year after a novel virus hit our shores is a historic and remarkable accomplishment

☐ **HHS Secretary Alex Azar**: **Operation Warp Speed delivered by the end of 2020**
✔ 2 @US_FDA-authorized vaccines
✔ 5 vaccine candidates in Phase 3 clinical trials
✔ 20 million first doses allocated, with the second doses on hand ready to be shipped a few weeks later.

HHS/DOD Announce Additional Vaccine Procurement: On December 23, the U.S. Department of Health & Human Services and the Department of Defense **announced** the purchase of an additional 100 million doses of COVID-19 vaccine from Pfizer. Pfizer will deliver at least 70 million doses by June 30, 2021 and the full 100 million doses no later than July 31, 2021. On December 11, the Trump Administration **announced** the purchase of an additional 100 million doses of Moderna's COVID-19 vaccine.

CDC Launches COVID-19 Vaccine Data Tracker

The Centers for Disease Control and Prevention launched a vaccination data page with jurisdiction-level data. The page tracks the total number of COVID-19 vaccines administered in the United States. You can find the tracker **here**. Note that data reported to the CDC significantly lags actual vaccinations administered, or as stated by the CDC, "A large difference between the number of doses distributed and the number of doses administered is expected at this point in the COVID vaccination program."

As a reminder, the 64 jurisdictions - which encompasses all 50 States, 8 U.S. territories, and six major metropolitan areas - as well as five federal agencies - including the Indian Health Service, Department of Defense, and Department of Veterans Affairs - are responsible for administering vaccines. Each week, as doses are released by companies for distribution, planes and trucks transport the vaccine to States and jurisdictions across the country. Learn more about the distribution process **here**. Find distribution plans for all 64 jurisdictions **here**, the Indian Health Service **here**, and the Department of Veterans Affairs **here**. Local officials should coordinate with their respective States on any vaccine allocation and/or distribution questions.

5th COVID-19 Vaccine Candidate Begins Phase 3 Clinical Trials

On Monday, December 28, The National Institutes of Health announced that a 5th COVID-19 vaccine candidate funded by NIH began enrollment for its Phase 3 clinical trial. The vaccine, developed by Novavax, will enroll up to 30k volunteers from the U.S. and Mexico.

☐ **HHS Secretary Alex Azar**: **With Phase 3 clinical testing of the Novavax COVID-19 vaccine candidate beginning in the U.S., we have now had five vaccine candidates in the #OperationWarpSpeed portfolio launch Phase 3 clinical trials before the end of 2020.**

The trial is being conducted in collaboration with **Operation Warp Speed** (OWS), a multi-agency collaboration overseen by HHS and the Department of Defense that aims to accelerate development, manufacture and distribution of medical countermeasures for COVID-19. Some of the U.S. trial sites participating are part of the NIAID-supported **COVID-19 Prevention Network** (CoVPN). The CoVPN

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includes existing NIAID-supported clinical research networks with infectious disease expertise and was designed for rapid and thorough evaluation of vaccine candidates and monoclonal antibodies for preventing COVID-19.

Read More: Phase 3 Trial of Novavax Investigational COVID-19 Vaccine Opens

Testing Update

As of Dec. 28, 309 tests and sample collection devices are authorized by the FDA under emergency use authorizations (EUAs). These include 235 molecular tests and sample collection devices, 63 antibody tests, and 11 antigen tests. There are 32 molecular authorizations that can be used with home-collected samples. There is one molecular prescription at-home test, one antigen prescription at-home test, and one over-the-counter (OTC) at-home antigen test.

Admiral Brett Giroir (Assistant Secretary for Health) : We continue to increase the capacity/diversity of #COVID19 testing. in December, we have available > 180 million tests. We have surpassed 2 million tests reported per day on 7 different dats. We have distributed > 122 million #BinaxNOW rapid tests to states and vulnerable.

Additional Updates

Department of Veterans Affairs Vaccine Update: During the week of December 20, the Department of Veterans Affairs (VA) announced the expansion of its COVID-19 vaccination program to an additional 128 sites. On December 31, Secretary Robert Wilkie announced that the VA has administered initial COVID-19 vaccine doses to more than 5,000 veterans residing in its Community Living Centers and Spinal Cord Injury and Disorders Centers and more than 50,000 health care employees. Learn more about COVID-19 vaccines and the VA here.

SBA Extends COVID-19 Economic Injury Disaster Loan Application Deadline: On December 30, 2020, the U.S. Small Business Administration announced that the deadline to apply for the Economic Injury Disaster Loan (EIDL) program for the COVID-19 pandemic disaster declaration is extended through December 31, 2021. To date, the SBA has approved $197 billion in low-interest loans which provides working capital funds to small businesses, non-profits and agricultural businesses make it through this challenging time.

The Doctor Is In: U.S. Surgeon General Jerome Adams released a new video answering a common COVID-19 question – how many shots of the vaccine are needed? Over the next few weeks, the Surgeon General will be releasing videos answering the most common COVID-19 questions.

Vaccine Surveillance: FDA Commissioner Dr. Stephen Hahn explains in a new video how all vaccines, including the COVID-19 vaccines, must adhere to specific FDA guidelines for safety, including ongoing surveillance.

Colleges, Universities, and Higher Learning: CDC updated information for colleges and universities to plan, prepare, and respond to COVID-19.

Considerations for Retirement Communities and Independent Living Facilities: CDC updated information on preventing the spread of COVID-19 in retirement communities and independent living facilities.

Considerations for Community-Based Organizations: As some community-based organizations (CBOs) begin to resume or increase their level of activities, CDC offers the following considerations for ways these organizations can help protect individuals and communities and slow the spread of COVID-19.

Frequently Asked Questions about COVID-19 Vaccination: CDC updated FAQS about COVID-19 vaccination.

Federal Appropriations, COVID-19 Relief Bills Signed

On December 27, 2020, President Trump signed into law the Consolidated Appropriations Act of 2021, providing $1.4 trillion for the fiscal year ending September 30, 2021. In addition to funding the Federal government, the act delivers coronavirus emergency response and relief.

With the signing, the President released the following statement:

I will sign the Omnibus and Covid package with a strong message that makes clear to Congress that wasteful items need to be removed. I will send back to Congress a redlined version, item by item, accompanied by the formal rescission request to Congress insisting that those funds be removed from the bill

I am signing this bill to restore unemployment benefits, stop evictions, provide rental assistance, add money for PPP, return our airline workers back to work, add substantially more money for vaccine distribution, and much more.

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 Read More: [Statement from the President]

Treasury and IRS Begin Delivering the Second Round of Economic Impact Payments to Millions of Americans

The Treasury Department and the Internal Revenue Service will begin delivering a second round of Economic Impact Payments to millions of Americans as part of the implementation of the Coronavirus Response and Relief Supplemental Appropriations Act of 2021. The initial direct deposit payments began arriving as early as December 29 for some and will continue this week. Paper checks began to be mailed on Wednesday, December 30. This second round of payments will provide critical economic support to those who, through no fault of their own, have been adversely impacted by the COVID-19 pandemic.

Eligible individuals will receive an Economic Impact Payment of up to $600 for individuals or $1200 for married couples and up to $600 for each qualifying child. Generally, if you have adjusted gross income for 2019 up to $75,000 for individuals and up to $150,000 for married couples filing joint returns and surviving spouses, you will receive the full amount of the second payment. For filers with income above those amounts, the payment amount is reduced.

This second round of payments will be distributed automatically, with no action required for eligible individuals. If additional legislation is enacted to provide for an increased amount, Economic Impact Payments that have been issued will be topped up as quickly as possible.

The swift issuance of this second round of payments follows the successful delivery of more than $270 billion in CARES Act Economic Impact Payments earlier this year, providing crucial economic support to nearly 160 million Americans.

Eligible individuals may check the status of payments at **IRS.gov/GetMyPayment**. For more information about Economic Impact Payments, please visit **IRS.gov/EIP**.

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Appropriations Bill Enhances Conservation, Outdoor Recreation & Wildfire Prevention

President Trump has made enhancing our nation's conservation initiatives a top priority, signing several historic conservation bills, including the John D. Dingell, Jr. Conservation, Management, and Recreation Act and the Great American Outdoors Act. Unlike other Administration's before it, the Trump Administration succeeded in enacting permanent full and mandatory funding for the Land and Water Conservation Fund and put in place funding to address the long discussed but never solved the problem of the maintenance backlog at our national parks and other public lands. The President also opened or expanded 4 million acres of land to new hunting and fishing opportunities, recovered the most endangered or threatened species in history for the first term of an Administration and treated 5.4 million acres of land to prevent wildfires – a 49 percent increase in comparison to the last 4 years of the previous Administration.

Here are some notable highlights in the Consolidated Appropriations Act of 2021 that Interior supported to improve conservation:

- **Great American Outdoors Act** – Provides full funding through the National Parks and Public Land Legacy Restoration Fund for priority projects addressing the maintenance backlog at national parks, wildlife refuges, public lands and American Indian schools and full funding through the Land and Water Conservation Fund to protect and conserve lands and waters across the country as identified by Interior.
- **Wildfire Management** – Provides $992.6 million ($40.3 million more than 2020) for Interior wildfire management activities, including fire preparedness, fire suppression, fuels management, burned-area rehabilitation, fire facilities and fire science, in addition to $310 million ($10 million more than 2020) for the Wildfire Suppression Operations Reserve Fund. The funding would allow Interior to provide grants to train non-Federal fire departments and similar groups to fight wildfires.
- **National Recreation and Preservation** – Provides two-year funding for the National Recreation and Preservation Account, allowing the National Park Service to more efficiently and effectively manage available resources and adjust for disruptions in a fiscal year.
- **Sage Grouse** – Provides $74 million for sage-grouse conservation.
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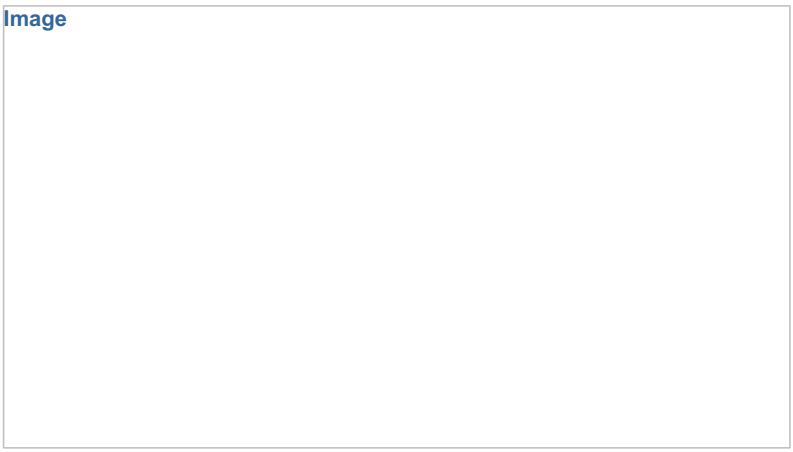
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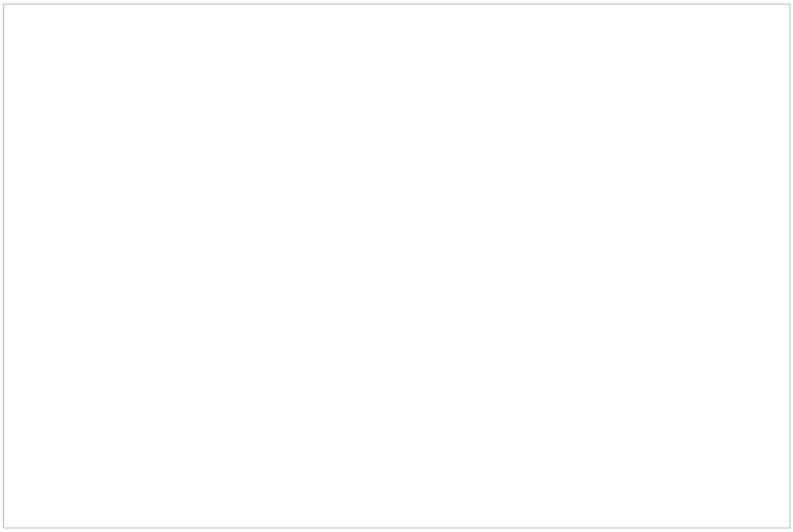
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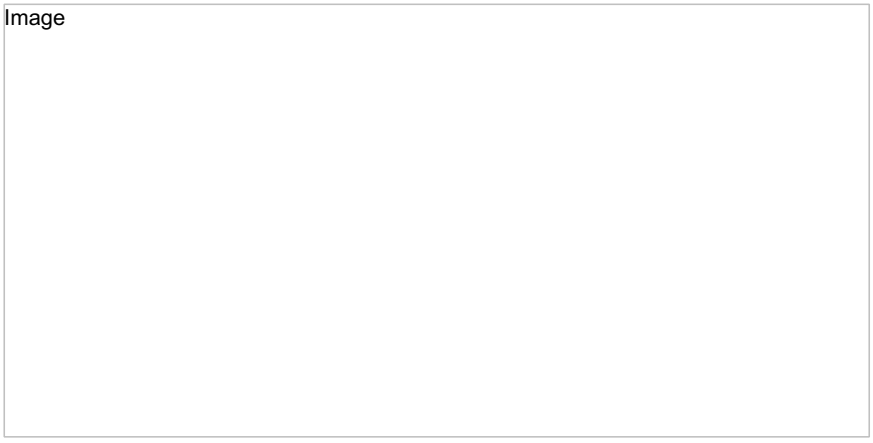


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- We have now allocated 19.88M first doses for delivery, with second doses on hand to be shipped in a few weeks, getting us to the goal of having enough doses available by the end of year for 20M Americans
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- As a reminder, distributing millions of safe and effective vaccines within a year after a novel virus hit our shores is a historic and remarkable accomplishment

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✔ 2 @US_FDA-authorized vaccines
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✔ 20 million first doses allocated, with the second doses on hand ready to be shipped a few weeks later.

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Here are some notable highlights in the Consolidated Appropriations Act of 2021 that Interior supported to improve conservation:

- **Great American Outdoors Act** – Provides full funding through the National Parks and Public Land Legacy Restoration Fund for priority projects addressing the maintenance backlog at national parks, wildlife refuges, public lands and American Indian schools and full funding through the Land and Water Conservation Fund to protect and conserve lands and waters across the country as identified by Interior.
- **Wildfire Management** – Provides $992.6 million ($40.3 million more than 2020) for Interior wildfire management activities, including fire preparedness, fire suppression, fuels management, burned-area rehabilitation, fire facilities and fire science, in addition to $310 million ($10 million more than 2020) for the Wildfire Suppression Operations Reserve Fund. The funding would allow Interior to provide grants to train non-Federal fire departments and similar groups to fight wildfires.
- **National Recreation and Preservation** – Provides two-year funding for the National Recreation and Preservation Account, allowing the National Park Service to more efficiently and effectively manage available resources and adjust for disruptions in a fiscal year.
- **Sage Grouse** – Provides $74 million for sage-grouse conservation.
- **Long Bridge Project** – Permits the National Park Service to convey lands for purposes of transportation and recreation for the Long Bridge project.
- **1908 Springfield Race Riot Site** – Authorizes the Secretary of the Interior to conduct a special resource study of areas associated with the 1908 Springfield Race Riot, which Secretary Bernhardt proclaimed as part of the African American Civil Rights Network on Aug. 21, 2020, and make recommendations on its possible inclusion as a unit of the National Park System.
- **New River Gorge National Park and Preserve Designation** – Redesignates the New River Gorge National River in West Virginia as the "New River Gorge National Park and Preserve" totaling approximately 7,021 acres expanding recreational access.

 Read More: [President Trump Signs Omnibus Spending and COVID Relief Bill, Uplifting American Families, Investing in American Infrastructure and Enhancing American Conservation]

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Executive Order on Improving Price and Quality Transparency in American Healthcare

On Tuesday, December 29, the D.C. Circuit Court of Appeals affirmed a signature initiative of the Trump Administration, which ensures that American patients have access to the hospital pricing information they need when they need it, beginning January 1.

President Donald J. Trump: **Because of the Trump Administration, hospitals are now required, effective immediately, to publish their REAL PROCES, which will create competition and drive downs costs MASSIVELY. Won lawsuit last week. Bigger than healthcare, it's called PRICE TRANSPARENCY.**

HHS Secretary Alex Azar: **Big win for American patients today. The DC Circuit ruling is another major victory for President Trump's transformative healthcare agenda. Starting January 1, Americans will have access to the actual prices paid for the most common hospital services.**

In November 2019, President Trump signed an **Executive Order** on Improving Price and Quality Transparency in American Healthcare. As directed under the Executive Order, the Centers for Medicare & Medicaid Services (CMS) issued two rules that take historic steps to increase price transparency to empower patients and increase competition among all hospitals, group health plans and health insurance issuers in the individual and group markets. One of the rules - **the Calendar Year (CY) 2020 Outpatient Prospective Payment System (OPPS) & Ambulatory Surgical Center (ASC) Price Transparency Requirements for Hospitals to Make Standard Charges Public Final Rule** - requires hospitals to provide patients with clear, accessible information about their "standard charges" for the items and services they provide, including through the use of standardized data elements, making it easier to shop and compare across hospitals, as well as mitigating surprises.

Read More: **Trump Administration Announces Historic Price Transparency Requirements to Increase Competition and Lower Healthcare Costs for All Americans (November 15, 2019)**

Executive Order on Expanding Educational Opportunity Through School Choice

On Monday, December 28, President Trump signed the **Executive Order** on Expanding Educational Opportunity Through School Choice. The Executive Order offers States and eligible entities the flexibility to provide certain disadvantaged children with emergency K-12 scholarships to access in-person learning opportunities.

Image

Under the Executive Order, States and eligible entities may use available Federal Community Service Block Grants (CSBG) funds to provide life-changing scholarships to families whose children cannot access in-person learning. Scholarships provided with CSBG funds can help families pay for private school tuition, home schooling, micro schooling, learning-pod expenses, special education services, or tutoring.

HHS Secretary Alex Azar: **President Trump's executive order will help children and families without access to in-person schooling to secure it with scholarships and other funding mechanisms for private options where public options are not available.**

What You Need To Know: **President Donald J. Trump Is Expanding Educational Opportunity for America's Children and Families Impacted by the Pandemic**

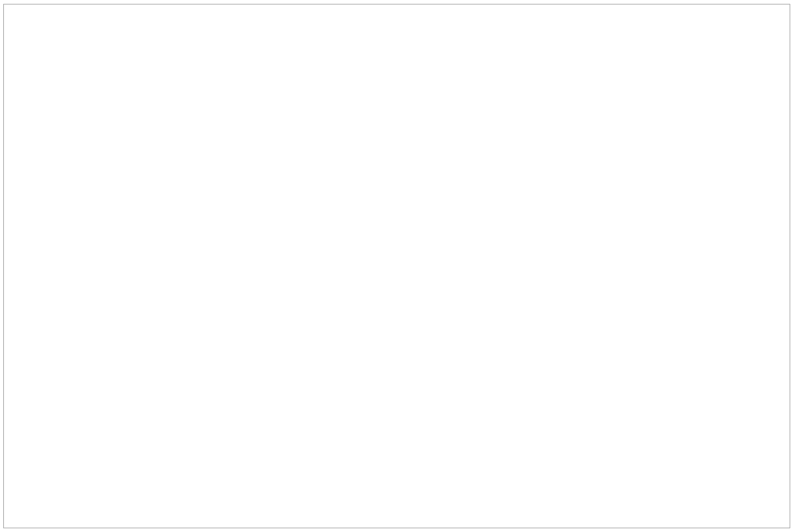
President's Commission on Law Enforcement - Report Released

On December 22, 2020, the President's Commission on Law Enforcement and the Administration of Justice released it's report following months of virtual meetings, testimony and study. This report represents the first comprehensive study of law enforcement in more than 55 years. Read the report **here**.

On October 28, 2019, President Donald J. Trump signed **Executive Order No. 13896**, which directed the Department of Justice to establish the "Commission on Law Enforcement and the Administration of Justice." The purpose of the Commission was to conduct a modern study of the state of American policing and determine specific measures to reduce crime and promote the rule of law. At the

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conclusion of this study, the Commission was to issue a report.

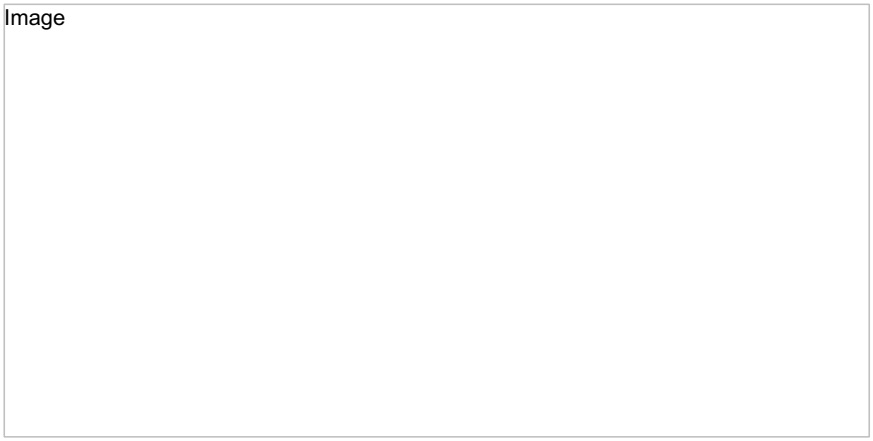


At a ceremony in **January 2020**, Attorney General Barr announced the establishment of the Commission and the individuals who would serve as commissioners. From January through July, the Commission met formally more than 50 times – adjusting to the challenges brought on by the COVID-19 pandemic – with the goal of making improvements to American law enforcement for years to come. Throughout that time, the Commission assembled a report that reviewed a variety of important issues affecting law enforcement and their capacity to safeguard American communities.

Operation Legend - Fighting Violent Crime and Delivering Results

On December 23, Attorney General Barr **announced the results** of Operation Legend, which was first launched in Kansas City, Missouri, on **July 8, 2020**, and then expanded to Chicago and Albuquerque, New Mexico, on **July 22, 2020**; to Cleveland, Ohio, Detroit, Michigan, and Milwaukee, Wisconsin, on **July 29, 2020**; to St. Louis, Missouri, and Memphis, Tennessee, on **August 6, 2020**; and to Indianapolis, Indiana, on **August 14, 2020**.

Since Operation Legend's launch on July 8, 2020, over 6,000 arrests – including approximately 467 for homicide – were made; more than 2600 firearms were seized; and more than 32 kilos of heroin, more than 17 kilos of fentanyl, more than 300 kilos of methamphetamine, more than 135 kilos of cocaine, and more than $11 million in drug and other illicit proceeds were seized.



Of the more than 6,000 individuals arrested, approximately 1,500 have been charged with federal offenses. Approximately 815 of those defendants have been charged with firearms offenses, while approximately 566 have been charged with drug-related crimes. The remaining defendants have been charged with various offenses.

The Attorney General launched the operation as a sustained, systematic and coordinated law enforcement initiative in which federal law enforcement agencies work in conjunction with state and local law enforcement officials to fight violent crime. Operation Legend is named in honor of four-year-old LeGend Taliferro, who was shot and killed while he slept early in the morning of June 29 in Kansas City.

Unsubscribe

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NM-OTERO-21-0275-A-000947

From: White House Office of Intergovernmental Affairs <IGA.state@who.eop.gov>
Sent: Monday, January 04, 2021 2:04 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Spam:*****, ☎ White House IGA COVID-19 Call Invite White House IGA Weekly Recap

Office of Intergovernmental Affairs

White House IGA Weekly Recap

for State, local, and Tribal officials | January 4, 2020

On behalf of the White House Office of Intergovernmental Affairs (IGA), we want to wish you a Happy New Year. We are pleased to provide you with the below top-line update of last week's resources, news, and guidance from the Trump Administration and Federal partners. You will also find a invitation for this week's White House IGA National COVID-19 Briefing Call. We will be joined by Senior Administration Officials from the White House Coronavirus Task Force and Operation Warp Speed for a comprehensive COVID-19 response and coordination update.

National COVID-19 Briefing Call Registration ☎
Date: Wednesday, January 6, 2021
Time: 1:00 PM Eastern (please note start time and time zone)
Call-In Registration: CLICK HERE (If you have previously registered for this call, you do not need to re-register)
Note: Call-in lines are limited. RSVP's will be allocated in the order they are received. You must register to join the call.

First Lady Melania Trump: **As 2020 ends, we remember the loved ones lost & give thanks to our leaders, frontline workers & others who have come together to fight the global pandemic. The resilience of our country is strong. I send my best wishes for a #NewYear full of health & peace.**

This week's recap includes:

- COVID-19 Response and Coordination Update
- Federal Appropriations, COVID-19 Relief Bills Signed
- Hospital Price Transparency Rule Upheld, Implemented
- Executive Order on Expanding Educational Opportunity Through School Choice
- President's Commission on Law Enforcement and the Administration of Justice - Report Released
- Operation Legend - Fighting Violent Crime and Delivering Results

We appreciate your partnership over the past four years and are thankful for the opportunity to continue to work with you in 2021. Please do not hesitate to reach out if we can ever be of assistance.

Sincerely,

The White House Office of Intergovernmental Affairs

William F. Crozer
Special Assistant to the President & Deputy Director
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Nick Barbknecht
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Gabby Uli
Deputy Associate Director
Cell 202-881-8552
Gabriella.M.Uli2@who.eop.gov

COVID-19 Response and Coordination Update

On behalf of the White House and entire Administration, we appreciate your partnership in the most robust Federal-State collaboration in modern American history to respond to COVID-19. Below, find pertinent announcements regarding Federal support and coordination efforts.

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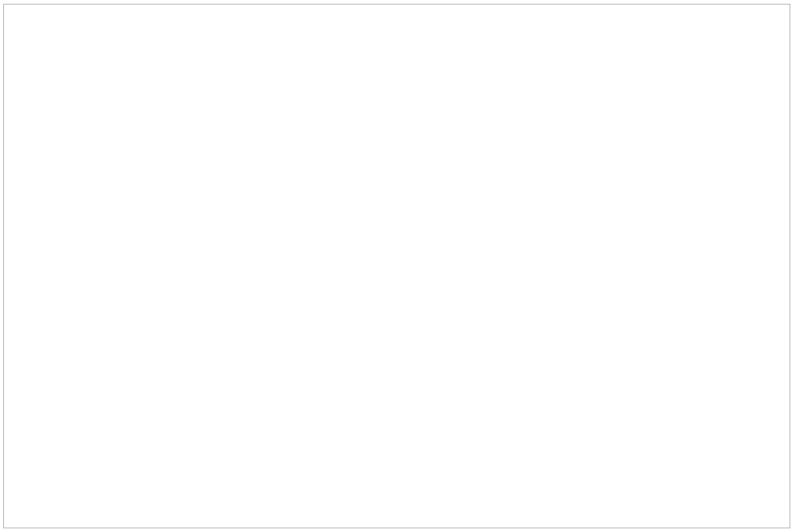
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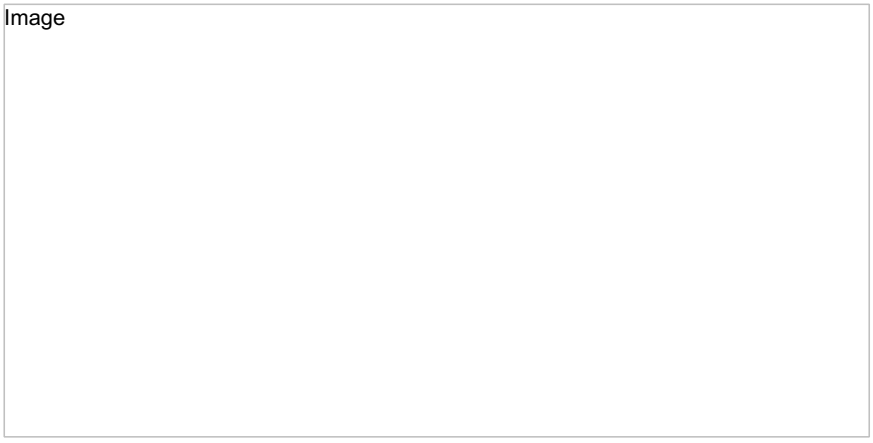


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Since Operation Legend's launch on July 8, 2020, over 6,000 arrests – including approximately 467 for homicide – were made; more than 2600 firearms were seized; and more than 32 kilos of heroin, more than 17 kilos of fentanyl, more than 300 kilos of methamphetamine, more than 135 kilos of cocaine, and more than $11 million in drug and other illicit proceeds were seized.



Of the more than 6,000 individuals arrested, approximately 1,500 have been charged with federal offenses. Approximately 815 of those defendants have been charged with firearms offenses, while approximately 566 have been charged with drug-related crimes. The remaining defendants have been charged with various offenses.

The Attorney General launched the operation as a sustained, systematic and coordinated law enforcement initiative in which federal law enforcement agencies work in conjunction with state and local law enforcement officials to fight violent crime. Operation Legend is named in honor of four-year-old LeGend Taliferro, who was shot and killed while he slept early in the morning of June 29 in Kansas City.

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NM-OTERO-21-0275-A-000953

From: White House Office of Intergovernmental Affairs <IGA.state@who.eop.gov>
Sent: Monday, January 04, 2021 2:04 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Spam:*****, ☎ White House IGA COVID-19 Call Invite White House IGA Weekly Recap

Office of Intergovernmental Affairs

White House IGA Weekly Recap

for State, local, and Tribal officials | January 4, 2020

On behalf of the White House Office of Intergovernmental Affairs (IGA), we want to wish you a Happy New Year. We are pleased to provide you with the below top-line update of last week's resources, news, and guidance from the Trump Administration and Federal partners. You will also find a invitation for this week's White House IGA National COVID-19 Briefing Call. We will be joined by Senior Administration Officials from the White House Coronavirus Task Force and Operation Warp Speed for a comprehensive COVID-19 response and coordination update.

National COVID-19 Briefing Call Registration ☎
Date: Wednesday, January 6, 2021
Time: 1:00 PM Eastern (please note start time and time zone)
Call-In Registration: CLICK HERE (If you have previously registered for this call, you do not need to re-register)
Note: Call-in lines are limited. RSVP's will be allocated in the order they are received. You must register to join the call.

First Lady Melania Trump: **As 2020 ends, we remember the loved ones lost & give thanks to our leaders, frontline workers & others who have come together to fight the global pandemic. The resilience of our country is strong. I send my best wishes for a #NewYear full of health & peace.**

This week's recap includes:

- COVID-19 Response and Coordination Update
- Federal Appropriations, COVID-19 Relief Bills Signed
- Hospital Price Transparency Rule Upheld, Implemented
- Executive Order on Expanding Educational Opportunity Through School Choice
- President's Commission on Law Enforcement and the Administration of Justice - Report Released
- Operation Legend - Fighting Violent Crime and Delivering Results

We appreciate your partnership over the past four years and are thankful for the opportunity to continue to work with you in 2021. Please do not hesitate to reach out if we can ever be of assistance.

Sincerely,

The White House Office of Intergovernmental Affairs

William F. Crozer
Special Assistant to the President & Deputy Director
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Gabby Uli
Deputy Associate Director
Cell 202-881-8552
Gabriella.M.Uli2@who.eop.gov

COVID-19 Response and Coordination Update

On behalf of the White House and entire Administration, we appreciate your partnership in the most robust Federal-State collaboration in modern American history to respond to COVID-19. Below, find pertinent announcements regarding Federal support and coordination efforts.

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Operation Warp Speed (COVID-19 Vaccines)

The U.S. Department of Health & Human Services Provides Operation Warp Speed / Vaccine Distribution Update (December 29, 2020) (**Tweet**)

- We have now allocated 19.88M first doses for delivery, with second doses on hand to be shipped in a few weeks, getting us to the goal of having enough doses available by the end of year for 20M Americans
- Data reported to the CDC significantly lags actual vaccinations administered. The CDC website says "A large difference between the number of doses distributed and the number of doses administered is expected at this point in the COVID vaccination program."
- We are grateful for the work jurisdictions and vaccinators are doing over the holidays, and we're working with jurisdictions who are already executing plans to ramp up rate of vaccinations and expand administration sites
- CDC **published** a COVID-19 vaccination playbook for jurisdictions in September, and has been working with them on their vaccination plans ever since -OWS is providing jurisdictions kits with the needed needles, syringes, and other supplies for vaccinations along with the vaccines
- CDC issued **$200M** to jurisdictions for flu/COVID vaccinations in September -CDC issued another **$140M** to jurisdictions for COVID vaccinations in December
- Across OWS, the DPA has been used 18 times. We have not hesitated to use the DPA, and Secretary Azar has made it clear he'll use every power at his disposal to ramp up vaccine production safely. There are, however, physical and operational limits to safe, quality, vaccine production.
- Vaccines are already free for Americans, thanks to the work of the Trump Administration -HHS has already launched a massive campaign to increase vaccine confidence and encourage uptake
- The first U.S. COVID-19 vaccine authorization was on **December 11** and the first U.S. COVID-19 vaccination was 15 days ago, on **December 14**
- As a reminder, distributing millions of safe and effective vaccines within a year after a novel virus hit our shores is a historic and remarkable accomplishment

☐ **HHS Secretary Alex Azar**: **Operation Warp Speed delivered by the end of 2020**
✔ 2 @US_FDA-authorized vaccines
✔ 5 vaccine candidates in Phase 3 clinical trials
✔ 20 million first doses allocated, with the second doses on hand ready to be shipped a few weeks later.

HHS/DOD Announce Additional Vaccine Procurement: On December 23, the U.S. Department of Health & Human Services and the Department of Defense **announced** the purchase of an additional 100 million doses of COVID-19 vaccine from Pfizer. Pfizer will deliver at least 70 million doses by June 30, 2021 and the full 100 million doses no later than July 31, 2021. On December 11, the Trump Administration **announced** the purchase of an additional 100 million doses of Moderna's COVID-19 vaccine.

CDC Launches COVID-19 Vaccine Data Tracker

The Centers for Disease Control and Prevention launched a vaccination data page with jurisdiction-level data. The page tracks the total number of COVID-19 vaccines administered in the United States. You can find the tracker **here**. Note that data reported to the CDC significantly lags actual vaccinations administered, or as stated by the CDC, "A large difference between the number of doses distributed and the number of doses administered is expected at this point in the COVID vaccination program."

As a reminder, the 64 jurisdictions - which encompasses all 50 States, 8 U.S. territories, and six major metropolitan areas - as well as five federal agencies - including the Indian Health Service, Department of Defense, and Department of Veterans Affairs - are responsible for administering vaccines. Each week, as doses are released by companies for distribution, planes and trucks transport the vaccine to States and jurisdictions across the country. Learn more about the distribution process **here**. Find distribution plans for all 64 jurisdictions **here**, the Indian Health Service **here**, and the Department of Veterans Affairs **here**. Local officials should coordinate with their respective States on any vaccine allocation and/or distribution questions.

5th COVID-19 Vaccine Candidate Begins Phase 3 Clinical Trials

On Monday, December 28, The National Institutes of Health announced that a 5th COVID-19 vaccine candidate funded by NIH began enrollment for its Phase 3 clinical trial. The vaccine, developed by Novavax, will enroll up to 30k volunteers from the U.S. and Mexico.

☐ **HHS Secretary Alex Azar**: **With Phase 3 clinical testing of the Novavax COVID-19 vaccine candidate beginning in the U.S., we have now had five vaccine candidates in the #OperationWarpSpeed portfolio launch Phase 3 clinical trials before the end of 2020.**

The trial is being conducted in collaboration with **Operation Warp Speed** (OWS), a multi-agency collaboration overseen by HHS and the Department of Defense that aims to accelerate development, manufacture and distribution of medical countermeasures for COVID-19. Some of the U.S. trial sites participating are part of the NIAID-supported **COVID-19 Prevention Network** (CoVPN). The CoVPN

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includes existing NIAID-supported clinical research networks with infectious disease expertise and was designed for rapid and thorough evaluation of vaccine candidates and monoclonal antibodies for preventing COVID-19.

Read More: Phase 3 Trial of Novavax Investigational COVID-19 Vaccine Opens

Testing Update

As of Dec. 28, 309 tests and sample collection devices are authorized by the FDA under emergency use authorizations (EUAs). These include 235 molecular tests and sample collection devices, 63 antibody tests, and 11 antigen tests. There are 32 molecular authorizations that can be used with home-collected samples. There is one molecular prescription at-home test, one antigen prescription at-home test, and one over-the-counter (OTC) at-home antigen test.

Admiral Brett Giroir (Assistant Secretary for Health) : We continue to increase the capacity/diversity of #COVID19 testing. in December, we have available > 180 million tests. We have surpassed 2 million tests reported per day on 7 different dats. We have distributed > 122 million #BinaxNOW rapid tests to states and vulnerable.

Additional Updates

Department of Veterans Affairs Vaccine Update: During the week of December 20, the Department of Veterans Affairs (VA) announced the expansion of its COVID-19 vaccination program to an additional 128 sites. On December 31, Secretary Robert Wilkie announced that the VA has administered initial COVID-19 vaccine doses to more than 5,000 veterans residing in its Community Living Centers and Spinal Cord Injury and Disorders Centers and more than 50,000 health care employees. Learn more about COVID-19 vaccines and the VA here.

SBA Extends COVID-19 Economic Injury Disaster Loan Application Deadline: On December 30, 2020, the U.S. Small Business Administration announced that the deadline to apply for the Economic Injury Disaster Loan (EIDL) program for the COVID-19 pandemic disaster declaration is extended through December 31, 2021. To date, the SBA has approved $197 billion in low-interest loans which provides working capital funds to small businesses, non-profits and agricultural businesses make it through this challenging time.

The Doctor Is In: U.S. Surgeon General Jerome Adams released a new video answering a common COVID-19 question – how many shots of the vaccine are needed? Over the next few weeks, the Surgeon General will be releasing videos answering the most common COVID-19 questions.

Vaccine Surveillance: FDA Commissioner Dr. Stephen Hahn explains in a new video how all vaccines, including the COVID-19 vaccines, must adhere to specific FDA guidelines for safety, including ongoing surveillance.

Colleges, Universities, and Higher Learning: CDC updated information for colleges and universities to plan, prepare, and respond to COVID-19.

Considerations for Retirement Communities and Independent Living Facilities: CDC updated information on preventing the spread of COVID-19 in retirement communities and independent living facilities.

Considerations for Community-Based Organizations: As some community-based organizations (CBOs) begin to resume or increase their level of activities, CDC offers the following considerations for ways these organizations can help protect individuals and communities and slow the spread of COVID-19.

Frequently Asked Questions about COVID-19 Vaccination: CDC updated FAQS about COVID-19 vaccination.

Federal Appropriations, COVID-19 Relief Bills Signed

On December 27, 2020, President Trump signed into law the Consolidated Appropriations Act of 2021, providing $1.4 trillion for the fiscal year ending September 30, 2021. In addition to funding the Federal government, the act delivers coronavirus emergency response and relief.

With the signing, the President released the following statement:

I will sign the Omnibus and Covid package with a strong message that makes clear to Congress that wasteful items need to be removed. I will send back to Congress a redlined version, item by item, accompanied by the formal rescission request to Congress insisting that those funds be removed from the bill

I am signing this bill to restore unemployment benefits, stop evictions, provide rental assistance, add money for PPP, return our airline workers back to work, add substantially more money for vaccine distribution, and much more.

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 Read More: [Statement from the President]

Treasury and IRS Begin Delivering the Second Round of Economic Impact Payments to Millions of Americans

The Treasury Department and the Internal Revenue Service will begin delivering a second round of Economic Impact Payments to millions of Americans as part of the implementation of the Coronavirus Response and Relief Supplemental Appropriations Act of 2021. The initial direct deposit payments began arriving as early as December 29 for some and will continue this week. Paper checks began to be mailed on Wednesday, December 30. This second round of payments will provide critical economic support to those who, through no fault of their own, have been adversely impacted by the COVID-19 pandemic.

Eligible individuals will receive an Economic Impact Payment of up to $600 for individuals or $1200 for married couples and up to $600 for each qualifying child. Generally, if you have adjusted gross income for 2019 up to $75,000 for individuals and up to $150,000 for married couples filing joint returns and surviving spouses, you will receive the full amount of the second payment. For filers with income above those amounts, the payment amount is reduced.

This second round of payments will be distributed automatically, with no action required for eligible individuals. If additional legislation is enacted to provide for an increased amount, Economic Impact Payments that have been issued will be topped up as quickly as possible.

The swift issuance of this second round of payments follows the successful delivery of more than $270 billion in CARES Act Economic Impact Payments earlier this year, providing crucial economic support to nearly 160 million Americans.

Eligible individuals may check the status of payments at **IRS.gov/GetMyPayment**. For more information about Economic Impact Payments, please visit **IRS.gov/EIP**.

 Read More: [Treasury and IRS Begin Delivering the Second Round of Economic Impact Payments to Millions of Americans]

Appropriations Bill Enhances Conservation, Outdoor Recreation & Wildfire Prevention

President Trump has made enhancing our nation's conservation initiatives a top priority, signing several historic conservation bills, including the John D. Dingell, Jr. Conservation, Management, and Recreation Act and the Great American Outdoors Act. Unlike other Administration's before it, the Trump Administration succeeded in enacting permanent full and mandatory funding for the Land and Water Conservation Fund and put in place funding to address the long discussed but never solved the problem of the maintenance backlog at our national parks and other public lands. The President also opened or expanded 4 million acres of land to new hunting and fishing opportunities, recovered the most endangered or threatened species in history for the first term of an Administration and treated 5.4 million acres of land to prevent wildfires – a 49 percent increase in comparison to the last 4 years of the previous Administration.

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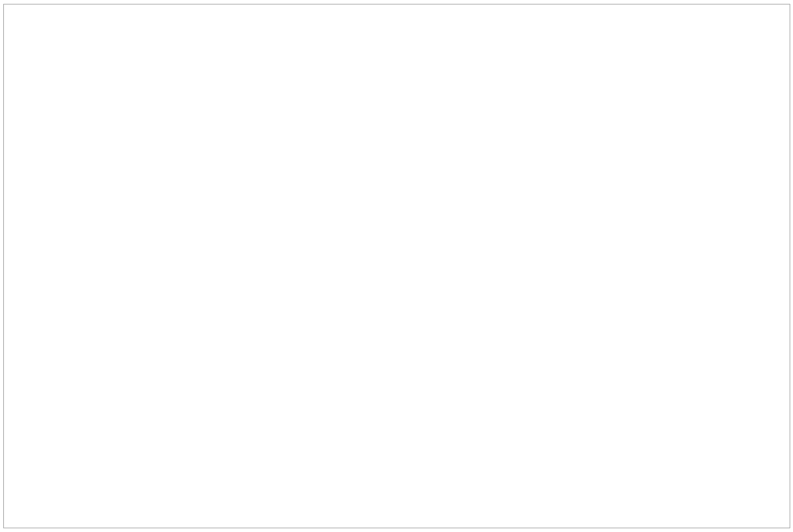
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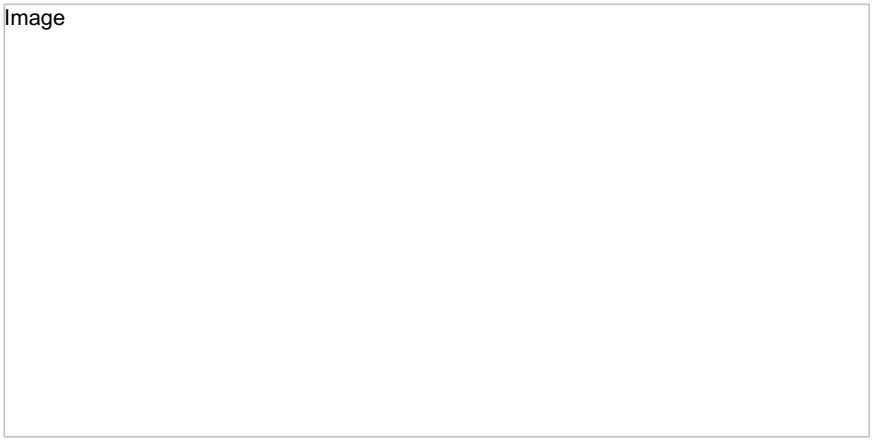


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NM-OTERO-21-0275-A-000959

From: Denise Robles <deniseluciarobles@gmail.com>
Sent: Tuesday, January 12, 2021 1:45 AM EST
To: yvette@yvetteherrell.com <yvette@yvetteherrell.com>; steve@gopnm.org <steve@gopnm.org>
CC: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>; jpaxon@sierraco.org <jpaxon@sierraco.org>; Glenn Hamilton <ghamilton@sierraco.org>
Subject: Trump campaign files motion to dismiss NM election lawsuit | KOB 4

https://www.kob.com/new-mexico-news/trump-campaign-files-motion-to-dismiss-nm-election-lawsuit/5974604/

Little late since your supporters have assaulted Congress and 5 people are dead. Shame on you.

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From: Denise Robles <deniseluciarobles@gmail.com>
Sent: Tuesday, January 12, 2021 1:45 AM EST
To: yvette@yvetteherrell.com <yvette@yvetteherrell.com>; steve@gopnm.org <steve@gopnm.org>
CC: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>; jpaxon@sierraco.org <jpaxon@sierraco.org>; Glenn Hamilton <ghamilton@sierraco.org>
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https://www.kob.com/new-mexico-news/trump-campaign-files-motion-to-dismiss-nm-election-lawsuit/5974604/

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From: Denise Robles <deniseluciarobles@gmail.com>
Sent: Sunday, January 03, 2021 2:29 PM EST
To: yvette@yvetteherrell.com <yvette@yvetteherrell.com>
CC: jpaxon@sierraco.org <jpaxon@sierraco.org>; cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>; Glenn Hamilton <ghamilton@sierraco.org>
Subject: Trump pressures Georgia's Raffensperger to overturn his defeat in extraordinary call - The Washington Post

https://www.washingtonpost.com/politics/trump-raffensperger-call-georgia-vote/2021/01/03/d45acb92-4dc4-11eb-bda4-615aaefd0555_story.html

This is who you are pandering to in a disgusting display of cynical self interest. So who is it again trying to STEAL and election?

DLR

AMERICAN OVERSIGHT

From: Denise Robles <deniseluciarobles@gmail.com>
Sent: Sunday, January 03, 2021 2:29 PM EST
To: yvette@yvetteherrell.com <yvette@yvetteherrell.com>
CC: jpaxon@sierraco.org <jpaxon@sierraco.org>; cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>; Glenn Hamilton <ghamilton@sierraco.org>
Subject: Trump pressures Georgia's Raffensperger to overturn his defeat in extraordinary call - The Washington Post

https://www.washingtonpost.com/politics/trump-raffensperger-call-georgia-vote/2021/01/03/d45acb92-4dc4-11eb-bda4-615aaefd0555_story.html

This is who you are pandering to in a disgusting display of cynical self interest. So who is it again trying to STEAL and election?

DLR

AMERICAN OVERSIGHT

From: Abelson, Jenn <Jenn.Abelson@washpost.com>
Sent: Saturday, January 09, 2021 6:18 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Washington Post request

Hi Mr. Griffin
I'm a reporter with the Washington Post and I'm writing about people who attended the protest and wanted to speak with you about your experience along with your thoughts on the recent Twitter ban. Do you have a couple minutes to connect tonight?

AMERICAN OVERSIGHT

From: prairiefire52@gmail.com <prairiefire52@gmail.com>
Sent: Sunday, January 10, 2021 1:25 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: What next? (Serious question, from an individual)

Hello, Mr. Griffin:

I saw the video of you that included the line about planting a flag on Pelosi's desk, and noticed that you seem to be a thoughtful, articulate guy.
So I'm writing to ask you a question that I have not yet seen addressed. It's a serious question, not rhetorical or 'gotcha'; I truly do want to understand.

If the Wednesday effort to prevent counting the states' Electoral College votes had succeeded, or if Pelosi had been successfully prevented from ever retaking her office, what were/are the anticipated tactical objectives for 2021 after overturning this election? And beyond? Are there any?

Can you explain, or even just send me a link to a website with the information? I genuinely do want to understand the movement's specific goals (not tactics—I understand you cannot share those with a stranger—but objectives) that are more specific than broad principles like liberty), and I don't yet.

Thank you,
Karen McKim

AMERICAN OVERSIGHT

From: Kathleene Parker <thundermesa111@gmail.com>
Sent: Sunday, January 10, 2021 1:15 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Where from here?

Coey, I suspect that there is a lot you and I might not agree on, although as a Democrat (used to be) from a time when I saw a party with ETHICS, a sense of PATRIOTISM and a willingness to work for the nation's good, not just the party's good, I find few in this world I loath more than Corrupt Chuck or Nitwit Nancy. .

However, the point of this communication is that I am a retired journalist—from a time when reports like ones on KRQE (which got a blistering email from me) and KOB attacking you would have got broadcast licenses revoked—I take exception to 1.) media's destructive, dishonest reporting this week and 2.) local affiliates singling you out when what they were obliged to do, TO STANDARDS OF ETHICAL JOURNALISM, was to OBJECTIVELY investigate the real reasons why millions of Americans are talking revolution, including due mostly to media's own culpability.

You might also like to know that I sent a blistering email to the Republican Party offering to go out and look for whomever a spine for whomever, so that perhaps they'd do less pandering to a corrupt media and more seeking to REFORM a corrupt media. (I consider media deregulation to be the most dangerous thing to happen to our nation since the attack on Pearl Harbor, although in many ways, DEREGULATION is far more dangerous. Americans knew Pearl Harbor was happening; few know media were deregulated, thanks mostly to a deregulated media free to make that OMISSION) happen!)

But when you have time for a chat, I'd like to touch base. As a retired journalist, I might be able to make some suggestions on how to handle media, one of them being, for you to chat with a good attorney specializing in libel about your possible options for lawsuits! You were, from my view, absolutely libeled. But beyond that, I might suggest some "good offense is a good defense" quotes AND approaches for you to give when you are contacted by media.

I'll also forward a paper on media I recently wrote, based on a commission from a national immigration-reduction group. Please bear in mind that it was commission by them and therefore written to their focus, but I do put out there some information EVERY AMERICAN needs to know about why, unlike in the past, media—broadcast or any of the rest of it—were required to in any way serve the public good or the nation. Others might see different motives, I focus only on specific law changes that some very misguided "leaders" (including Reagan) allowed that opened a Pandora's Box of unbelievable consequences, with it key that a DEMOCRACY CANNOT SURVIVE WITHOUT A TRUSTWORTHY MEDIA!

And I see two things: Democrats eagerly and opportunistically using media to their own ends and a Republican party either unable or unwilling to see that today's media is definitely not "your father's media," which was required, BY LAW, to adhere to certain standards of ETHICS. Where is their leadership? Answer, well, we saw that here in New Mexico in their response to what was done to you.

Best,
Kathleene Parker
Los Alamos
505-259-1886
(40 years in journalism, including 13 covering Los Alamos National Laboratory and northern New Mexico to standards of ETHICAL journalism.)
Sent from Mail for Windows 10

AMERICAN OVERSIGHT

From: Clinton Beevers <9855hcb@gmail.com>
Sent: Wednesday, January 13, 2021 8:29 AM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Who do you think you are, trump is a COWARDLY republican Communist Dictator You don't have the right to exist..

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AMERICAN OVERSIGHT

From: David Prescott <prescottdavidp@gmail.com>
Sent: Sunday, January 10, 2021 10:48 AM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: your abysmal action in DC last Wed

Your actions in Washington, DC were nothing less than treasonous. They deserve nothing but condemnation. Your resignation from your position in the county is demanded as you pose a danger to our state.

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AMERICAN OVERSIGHT

From: Leonard Probert <lenprobert@hotmail.com>
Sent: Saturday, January 09, 2021 6:32 PM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Your Comments

You are a traitor to this country and a Benedict Arnold. You are advocating the overthrow of a democratically elected government and are attacking the Constitution of the United States. Read a book, so that you have some understanding of what a real patriot looks like. You are not it. I served in the military and now the oath I took to defend the Constitution from people like you. You took the same oath, you ignorant hypocrite.

Sincerely,
Len Probert

AMERICAN OVERSIGHT

From: Nancy S Gustaf <n.gustaf@icloud.com>
Sent: Friday, January 08, 2021 10:47 AM EST
To: cgriffin@co.otero.nm.us <cgriffin@co.otero.nm.us>
Subject: Your Proud of This? You should resign.

Dear Mr. Griffin,
What occurred at our nation's Capitol on Wednesday was not First Amendment rights.
You participated in an anarchistic act. I won't get into more of the disgusting details because you were "proudly "there. Luckily more people did not die.
You and the other drum beaters jeopardized the safety of our VP, VP to become, and all our elected officials and there staffs.

Your movement will not survive because it is based on fake news and lies. But, no matter what you believe, you had no right to join that violent mob to desecrate the People's House. Many of the actions were criminal behavior.

Your ARE an elected official in Otero County from New Mexico. You are an embarrassment and scary if you believe all this false information as you may be delusional.
You should resign.
Thank you for listening.
Nancy Gustaf
Albuquerque, NM

PS. In the 60's people demonstrated against the Viet Nam war. Others who did not agree said "Love it or leave it." I say to you if you cannot participate in our Democracy
a lawful way, maybe you should find a new home out of the USA.
I have travelled a lot. It ain't so much fun for the people living in autocratic countries.
Sent from my iPad=

AMERICAN OVERSIGHT