



## **SMALL BUSINESS ADMINISTRATION**

### **13 CFR Part 126**

**RIN: 3245-AH66**

#### **HUBZone Program: Extending Map Freeze**

**AGENCY:** U.S. Small Business Administration

**ACTION:** Direct final rule.

**SUMMARY:** This direct final rule extends the HUBZone map freeze mandated by the National Defense Authorization Act for Fiscal Year 2018 (NDAA 2018) from December 31, 2021, to June 30, 2023. The NDAA 2018 requires that certain certified HUBZone small business concerns shall maintain their HUBZone status until the HUBZone map is updated in accordance with the results of the 2020 census. SBA previously issued a rule to implement this provision and “freeze” the HUBZone map until December 31, 2021. However, SBA has learned that the data necessary to update the HUBZone map to reflect the 2020 census results will not be available to SBA until December 2022. Thus, SBA must extend the HUBZone “freeze” through June 30, 2023, which will permit SBA to process the data, update the HUBZone map, and provide adequate notice to the HUBZone small business community. This amendment is necessary to avoid public confusion about when certain HUBZone designations will be expiring.

**DATES:** This rule is effective on [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] without further action, unless significant adverse comment is received by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If significant adverse comment is received, SBA will publish a timely withdrawal of the rule in the *Federal Register*.

**ADDRESSES:** You may submit comments, identified by RIN: 3245-AH66, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Mail or Hand Delivery/Courier: Laura Maas, HUBZone Program, 409 Third Street SW, Washington, DC 20416.

SBA will post all comments on <http://www.regulations.gov>. If you wish to submit confidential business information (CBI), as defined in the User Notice at <http://www.regulations.gov>, please submit the information to Laura Maas, HUBZone Program, 409 Third Street SW, Washington, DC 20416, 202-205-7341, or send an email to [hubzone@sba.gov](mailto:hubzone@sba.gov). Highlight the information that you consider to be CBI and explain why you believe SBA should hold this information as confidential. SBA will review the information and make the final determination on whether it will publish the information.

**FOR FURTHER INFORMATION CONTACT:** Laura Maas, HUBZone Program, 409 Third Street SW, Washington, DC 20416, 202-205-7341, [hubzone@sba.gov](mailto:hubzone@sba.gov).

**SUPPLEMENTARY INFORMATION:** Section 1701(i) of the National Defense Authorization Act for Fiscal Year 2018 (NDAA 2018), Public Law 115-91, December 12, 2017, provides that certain certified HUBZone small business concerns shall maintain their HUBZone status until the HUBZone map is updated in accordance with the results of the 2020 census. To implement this provision, on November 26, 2019, SBA published a final rule “freezing” the HUBZone map until the map could be updated based on the results of the 2020 census. 84 FR 65222. In the preamble to the final rule, SBA explained:

In enacting section 1701(i), Congress intended for small businesses located in expiring redesignated areas to retain their HUBZone eligibility until the date on which SBA updates the HUBZone maps in accordance with the broader changes described in section 1701. In other words, firms that were certified HUBZone small business concerns as of the date of enactment of the NDAA 2018 (December 12, 2017), and that had principal offices located in redesignated areas set to expire prior to January 1, 2020, shall remain certified HUBZone small business concerns until SBA updates the HUBZone maps after the 2020 decennial census...SBA notes that to implement this change, SBA will ‘freeze’ the HUBZone maps with respect

to qualified census tracts, qualified non-metropolitan counties, and redesignated areas. As a result, for all redesignated areas in existence on December 12, 2017, the expiration of their HUBZone treatment has been extended until December 31, 2021. SBA selected this date because SBA estimates that the HUBZone maps will have been updated to incorporate the results of the 2020 census and to reflect the broad changes mandated by section 1701 by that time, and selecting a specific date provides stability to program participants. SBA did not receive any comments on the proposed definition of ‘HUBZone small business concern’ and is implementing the changes as proposed. (84 FR 65222, 65226).

In the time since the publication of this final rule, SBA has learned that the datasets necessary for SBA to update the HUBZone map based on the results of the 2020 census will not be available to SBA until approximately December 2022. These datasets include the Department of Housing and Urban Development’s designation of qualified census tracts. Consequently, SBA must extend the HUBZone map freeze beyond December 31, 2021. SBA has determined that the map freeze should be extended through June 30, 2023, which will permit SBA to process the data, update the HUBZone map, and provide adequate notice to the HUBZone small business community.

In order to extend the map freeze through June 30, 2023, SBA must amend the date set forth in the definitions of the terms *HUBZone small business concern or certified HUBZone small business concern* and *Redesignated area* contained in § 126.103 of the HUBZone regulations. This amendment is necessary to avoid public confusion about when certain HUBZone designations will be expiring.

**Compliance with Executive Orders 12866, 12988, 13132, 13175, 13563, the Congressional Review Act (5 U.S.C. 801–808), the Paperwork Reduction Act (44 U.S.C. Ch. 35), and the Regulatory Flexibility Act (5 U.S.C. 601-612), and the Administrative Procedure Act, 5 U.S.C. 553**

**Executive Order 12866**

The Office of Management and Budget (OMB) has determined that this direct final rule does not constitute a significant regulatory action under Executive Order 12866 (Regulatory Planning and Review).

### Executive Order 12988

This action meets applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform), to minimize litigation, eliminate ambiguity, and reduce burden. The action does not have retroactive or preemptive effect.

### Executive Order 13132

For the purposes of Executive Order 13132 (Federalism), SBA has determined that this direct final rule will not have substantial, direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, for the purpose of Executive Order 13132, SBA has determined that this direct final rule has no federalism implications warranting preparation of a federalism assessment. If you believe this direct final rule has implications for federalism, please call or email the person listed in the FOR FURTHER INFORMATION CONTACT section.

### Executive Order 13175

SBA has determined that this direct final rule would not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect 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. If you believe this direct final rule has implications for Indian tribes, please call or email the person listed in the FOR FURTHER INFORMATION CONTACT section.

### Executive Order 13563

Executive Order 13563 (Improving Regulation and Regulatory Review) reaffirms the principles of Executive Order 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive

order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. Executive Order 13563 also requires that regulations be based on the open exchange of information and perspectives among state and local officials, affected stakeholders in the private sector, and the public as a whole. SBA has developed this rule in a manner consistent with these requirements. While developing this rule, SBA responded to specific inquiries from government officials and the public regarding the extension of the HUBZone map freeze.

#### Paperwork Reduction Act, 44 U.S.C., Ch. 35

SBA has determined that this direct final rule does not impose additional reporting or recordkeeping requirements under the Paperwork Reduction Act, 44 U.S.C., Chapter 35.

#### Regulatory Flexibility Act, 5 U.S.C. 601-612

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601, requires administrative agencies to consider the effect of their actions on small entities, small non-profit enterprises, and small local governments. Pursuant to the RFA, when an agency issues a rulemaking, the agency must prepare a regulatory flexibility analysis which describes the impact of the rule on small entities. However, section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities. Within the meaning of RFA, SBA certifies that this direct final rule will not have a significant economic impact on a substantial number of small entities because it will directly impact only certified HUBZone small business concerns with principal offices located in Redesignated Areas.

#### Justification for Direct Final Rule

SBA is publishing this rule as a direct final rule because SBA views this as a non-controversial administrative action because it merely changes a date in SBA's regulations to reflect updated information about when the 2020 Census results will be incorporated into the Department of Housing and Urban Development's designation of qualified census tracts. This rule will be effective on the date shown in the DATES section unless SBA receives any significant adverse comments on or before the deadline for comments set forth in the DATES section. Significant adverse comments are comments that provide strong justifications why the rule should not be adopted or for changing the rule. SBA does not expect to receive any significant adverse comments because section 1701(i) of the 2018 NDAA requires SBA to maintain the HUBZone status of certain certified HUBZone small business concerns until the HUBZone maps can be updated to reflect the results of the 2020 census. Implementation of this change will benefit the public by allowing the HUBZone small business community to plan for the update of the maps on July 1, 2023, rather than January 1, 2022. If SBA receives any significant adverse comments, SBA will publish a notice in the *Federal Register* withdrawing this rule before the effective date. If SBA receives no significant adverse comments, SBA will publish a document in the *Federal Register* confirming the effective date.

Congressional Review Act, 5 U.S.C. 801–808

Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (codified at 5 U.S.C. 801–808), also known as the Congressional Review Act (CRA), generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. SBA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. Additionally, the

CRA provides that a major rule under the CRA cannot take effect until 60 days after it is published in the *Federal Register*; however, the Office of Information and Regulatory Affairs has determined that this rule is not a “major rule” as defined by 5 U.S.C. 804(2).

### **List of Subjects in 13 CFR Part 126**

Administrative practice and procedure, Government procurement, Small businesses.

Accordingly, for the reasons stated in the preamble, SBA amends 13 CFR part 126 as follows:

#### **PART 126—HUBZONE PROGRAM**

1. The authority for 13 CFR part 126 continues to read as follows:

Authority: 15 U.S.C. 632(a), 632(j), 632(p), 644 and 657a; Pub. L. 111-240, 24 Stat. 2504.

#### **[§ 126.103 Amended]**

2. Amend § 126.103 as follows:

- a. Amend the definition of the term *HUBZone small business concern or certified HUBZone small business concern* by removing the date “December 31, 2021” and adding in its place the date “June 30, 2023”; and

- b. Amend the definition of the term *Redesignated area* by removing the date “December 31, 2021” and adding in its place the date “June 30, 2023”.

Isabella Casillas Guzman  
Administrator.