

Supporting Authority

The supporting authority that authorizes the collection of petitions from State Governors requesting the designation of Governor-designated covered areas is section 1701(e) of the National Defense Authorization Act for Fiscal Year 2018, Pub. L. 115-91:

(e) GOVERNOR-DESIGNATED COVERED AREA.—Section 31(b) of the Small Business Act (as transferred and redesignated by subsection (a)), is amended—

(1) in paragraph (1)—

(A) in subparagraph (E), by striking “or” at the end;

(B) in subparagraph (F), by striking the period at the end and inserting “; or”; and

(C) by inserting after subparagraph (F) the following new subparagraph:

“(G) a Governor-designated covered area.”;

(2) in paragraph (3) (as amended by subsection (c)), by adding at the end the following new subparagraph:

“(F) GOVERNOR-DESIGNATED COVERED AREA.—

“(i) IN GENERAL.—A ‘Governor-designated covered area’ means a covered area that the Administrator has designated by approving a petition described under clause (ii).

“(ii) PETITION.—For a covered area to receive a designation as a Governor-designated covered area, the Governor of the State in which the covered area is wholly contained shall include such covered area in a petition to the Administrator requesting such a designation. In reviewing a request for designation included in such a petition, the Administrator may consider

—

“(I) the potential for job creation and investment in the covered area;

“(II) the demonstrated interest of small business concerns in the covered area to be designated as a Governor-designated covered area;

“(III) how State and local government officials have incorporated the covered area into an economic development strategy; and

“(IV) if the covered area was a HUBZone before becoming the subject of the petition, the impact on the covered area if the Administrator did not approve the petition.

“(iii) LIMITATIONS.—Each calendar year, a Governor may submit not more than 1 petition described under clause (ii). Such petition shall include all covered areas in a State for which the Governor seeks designation as a Governor-designated covered area, except that the total number of covered areas included in such petition may not exceed 10 percent of the total number of covered areas in the State.

“(iv) CERTIFICATION.—If the Administrator grants a petition described under clause (ii), the Governor of the Governor-designated covered area shall, not less frequently than annually, submit data to the Administrator certifying that each Governor-designated covered area continues to meet the requirements of clause (v)(I).

“(v) DEFINITIONS.—In this subparagraph:

“(I) COVERED AREA.—The term ‘covered area’ means an area in a State—

“(aa) that is located outside of an urbanized area, as determined by the Bureau of the Census;

“(bb) with a population of not more than 50,000; and

“(cc) for which the average unemployment rate is not less than 120 percent of the average unemployment rate of the United States or of the State in which the covered area is located,

whichever is less, based on the most recent data available from the American Community Survey conducted by the Bureau of the Census.

“(II) GOVERNOR.—The term ‘Governor’ means the chief executive of a State.

“(III) STATE.—The term ‘State’ means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa.”.

SBA has implemented this statutory authority through a direct final rule published on November 15, 2019. 84 FR 62447. This direct final rule created a new section 13 C.F.R. § 126.104:

§ 126.104 How can a Governor petition for the designation of a Governor-designated covered area?

(a) For a specific covered area to receive a designation as a Governor-designated covered area, the Governor of the State in which the identified covered area is wholly contained shall include such area in a petition to the Administrator requesting such a designation. In reviewing a request for designation included in such a petition, the Administrator may consider—

(1) the potential for job creation and investment in the covered area;

(2) the demonstrated interest of small business concerns in the covered area to be designated as a Governor-designated covered area;

(3) how State and local government officials have incorporated the covered area into an economic development strategy; and

(4) if the covered area was a HUBZone before becoming the subject of the petition, the impact on the covered area if the Administrator did not approve the petition.

(b) Each calendar year, a Governor may submit not more than 1 petition described in this section. Such petition shall include all covered areas in a State for which the Governor seeks designation as a Governor-designated covered area, except that the total number of covered areas

included in such petition may not exceed 10 percent of the total number of covered areas in the State.

(c) If the Administrator grants a petition described in this section, the Governor of the Governor-designated covered area shall, not less frequently than annually, submit data to the Administrator certifying that each Governor-designated covered area continues to meet the requirements of paragraph (d)(1).

(d) In this section:

(1) The term “covered area” means an area in a State—

(i) that is located outside of an urbanized area, as determined by the Bureau of the Census;

(ii) with a population of not more than 50,000; and

(iii) for which the average unemployment rate is not less than 120 percent of the average unemployment rate of the United States or of the State in which the covered area is located, whichever is less, based on the most recent data available from the American Community Survey conducted by the Bureau of the Census.

(2) The term “Governor” means the chief executive of a State.

(3) The term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa.