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To: Regional Directors, Attn: Regional Wildlife & Sport Fish Restoration Chiefs

From: Assistant Director, Wildlife & Sport Fish Restoration Program

Date: September 30, 2019

Subject: Interim Guidance – Implementing the Target Practice and Marksmanship Training Support Act (Public Law 116-17)

The President signed the Target Practice and Marksmanship Training Support Act (Public Law (Pub. L. 116-17) into law on May 10, 2019. The purpose of Pub. L. 116-17 is: “to facilitate the construction and expansion of public target ranges, including ranges on Federal land managed by the Forest Service and the Bureau of Land Management.” It amends the Wildlife Restoration Act by adding a definition for public target range, and then provides advantages for a State engaging in activities for acquiring land for, expanding, or constructing public target ranges. These advantages include allowing a State to allocate up to 10 percent of its apportioned Wildlife Restoration funds to supplement Enhanced Hunter Education funds for these activities. The allocated Wildlife Restoration funds, in addition to Basic and Enhanced Hunter Education funds allocated for these same activities, will be available for 5 years with up to 90 percent Federal cost share.

Implementing the Act will require the U.S. Fish and Wildlife Service (Service) to make regulatory changes. In the interim period prior to a new regulation being available, Regions may immediately begin using the attached guidance in their evaluation of Wildlife Restoration grants seeking the advantages offered by the Act for acquiring land for, expanding, or constructing public target ranges.

This Interim Guidance has been developed based on expert advice from the Service’s Solicitor’s Office and reflects input from Wildlife and Sport Fish Restoration (WSFR) Regional Offices, the Joint Federal/State Task Force for Federal Assistance Policy (JTF), and States. Thanks to the

Regional staff who worked to review the draft guidance and provide timely comments. For comments which did not result in a change in the guidance, an explanation is provided in the Wiki Interim Guidance space.

Feel free to share the attached guidance with States as you deem appropriate. Also, please encourage States to carefully consider the unique changes and potential long-term implications when determining how to allocate funds so that they can maximize the benefits offered while minimizing the possibility of reverting funds.

WSFR was required to request additional subaccounts be assigned in the Financial and Business Management System (FBMS) to accommodate the new funding parameters offered through Pub. L. 116-17. The Interim Guidance reflects uncertainty in the timing of when the system would be updated to include the new subaccounts. However, I am pleased to report that the new subaccounts are available in FBMS effective October 1, 2019.

You may contact Ms. Lisa Van Alstyne, WSFR Policy at Lisa.Van.Alstyne@fws.gov or (703) 358-1942 with additional questions or further comments. Please include "Interim Guidance" in the subject line of emails.

Interim Guidance for Applying Public Law 116-17, the Target Practice and Marksmanship Training Support Act, to the Pittman-Robertson Wildlife Restoration Act

PURPOSE AND TERMS

A. Why do we need Interim Guidance? The Target Practice and Marksmanship Training Support Act (Pub. L. 116-17, May 10, 2019) amends the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669) to define a public target range and offers States alternatives for funding specific activities related to public target ranges under the Basic Hunter Education subprogram (BHE), the Enhanced Hunter Education Program (EHE), and the Wildlife Restoration Program (WR). The Wildlife & Sport Fish Restoration Program (WSFR) staff will begin the process of updating the regulations at 50 CFR 80 to accommodate these changes, but until this is accomplished, we offer this Interim Guidance so that States may begin engaging in activities for acquiring land for, expanding, or constructing public target ranges using the new allowable approaches, as described in this guidance.

The Interim Guidance is in effect until superseded by other guidance, superseded by a final rule, or rescinded.

B. What terms do I need to know? The following terms are applicable to this Interim Guidance:

(1) 90/10/5 is a shortcut reference for activities for acquiring land for, expanding, or constructing public target ranges that will benefit from a 90% Federal/10% non-Federal cost share and 5 year period of availability.

(2) Account and Subaccount means the fiscal management designation used in the Service's financial system to identify funds by allocation. When WSFR Headquarters apportions BHE, EHE, and WR funds (see Terms 6, 9, and 17), they are electronically transferred to an account or subaccount and are accessible to Regions through the Service's financial system. When a State determines how they wish to use those funds, they notify their Regional WSFR Office and WSFR fiscal staff will assign funds to the appropriate account or subaccount in the Service's financial system.

(3) Acquire land means taking ownership or control of a designated area of land or an interest in land by purchase, exchange, assignment, reversion, gift, eminent domain, or any other method consistent with State or Federal law. The purpose of the acquisition could be for new construction or to expand an existing facility. There is no requirement for the amount of acres acquired – the State must demonstrate in the grant application that the acquisition is sufficient for the purposes of the award.

(4) Allocate means to assign funds to a specific purpose.

(5) Apportioned funds are those that are awarded to a State based on formulas in the Wildlife Restoration Act. Wildlife Restoration (WR, see (17)) funds are apportioned using the formula at 16 U.S.C. 669c(b), Basic Hunter Education (BHE, see (6)) funds are apportioned using the formula at 669c(c), and Enhanced Hunter Education (EHE, see (9)) are apportioned using the formula at 16 U.S.C. 669c(c) and according to the criteria at 16 U.S.C. 669h-1(a).

(6) Basic Hunter Education (BHE) means the subprogram authorized at 16 U.S.C. 669g(b), described at 50 CFR 80.50(b), and sometimes referred to by practitioners as "Section 4c Hunter Ed" to describe the section in the Wildlife Restoration Act the source of funding for BHE was added by Pub. L. 91-503 (October 23, 1970).

(7) Constructing (for the purposes of projects for acquiring land for, expanding, or constructing public target ranges) means building a public target range.

(8) Cost share means the portion of project costs not paid by Federal funds (unless otherwise authorized by Federal statute). (2 CFR 200.29; see also §200.306 Cost sharing or matching.)

(9) Enhanced Hunter Education (EHE) means the program authorized at 16 U.S.C. 669h-1, described at 50 CFR 80.50(c), and sometimes referred to by practitioners as "Section 10 Hunter Ed" to describe where in the Wildlife Restoration Act the section authorizing the program was added by Pub. L. 106-408 (November 1, 2000).

(10) Expanding means (for the purposes of projects for acquiring land for, expanding, or constructing public target ranges) physical improvements to an existing public target range that add to the utility of the range in a manner that ultimately increases range capacity to accommodate more participants. Physical improvements do not necessarily have to increase the size of the facility, but must result in an increase in usability that will accommodate more participants.

(11) Maintenance means keeping structures or equipment in a condition to serve the intended purpose. It includes cyclical or occasional actions to keep a facility fully functional during its useful life. It does not include operational actions (see B(13)) such as janitorial work. Examples of maintenance actions are: (1) Routine upkeep for bullet traps; (2) Replacing components of a facility, such as a roof, benches, or backstop that are expected to need replacing over the course of the useful life of the facility; and (3) Painting, adding gravel to a parking lot, adding road mix/sand to existing firing range surfaces, and replacing rotting boards.

(12) Obligation has two meanings depending on the context:

(a) When a grantee of Federal financial assistance commits funds by incurring costs for purposes of the grant, the definition at 2 CFR 200.71 applies.

(b) When the Service sets aside funds for disbursement immediately or at a later date in the formula-based programs under the Acts, the definition at 50 CFR 80.91 applies.

(13) Operations means activities done on a frequent cycle (daily, weekly, monthly – more often than cyclical maintenance) and are actions that support the availability of the facility and its components for current public use. Operations may be physical or administrative.

(14) Public target range means a specific location that—

(a) Is identified by a governmental agency for recreational shooting;

(b) Is open to the public;

(c) May be supervised; and

(d) May accommodate archery or rifle, pistol, or shotgun shooting. (Pub. L. 116-17)

(15) Safety margin means an accounting technique used by WSFR to determine the age of funds using the "first in, first out" (FIFO) method. This allows WSFR to use the most liberal interpretation of assigning an age to any funds that become available from a prior year apportionment. Safety Margins are only established at the end of the Federal Fiscal Year (FFY). The safety margin determines if de-obligated (unspent) funds have another year of funding availability to be obligated to future grants. For these grant programs, de-obligated grant funds must "pass through the safety margin" to be recovered and returned to the State grant program account. De-obligated grant funds that do not pass through the safety margin will

revert to the Service to be used in accordance with grant program rules. Grant funds obligated and de-obligated during the same FFY are returned to the State grant program account and do not pass through the safety margin. WSFR Training has developed a [safety margin training video](#) to assist in understanding the safety margin process.

(16) *State* means the definition found at 50 CFR 80.2.

(17) *Wildlife Restoration Program (WR)* means the program authorized by the Wildlife Restoration Act (Pub. L. 75-415, September 2, 1937) for activities described at 50 CFR 80.50(a).

THE TARGET PRACTICE AND MARKSMANSHIP TRAINING SUPPORT ACT (Pub. L. 116-17) AND THE WILDLIFE RESTORATION ACT (16 U.S.C. 669)

C. What changes does Pub. L. 116-17 make to the Wildlife Restoration Act (16 U.S.C. 669)? Pub. L. 116-17 amends the Wildlife Restoration Act and makes the following changes:

(1) Defines a public target range (see Terms, B(14) and E);

(2) Applies to specific activities of “acquiring land for, expanding, or constructing public target ranges;”

(3) Allows a State to choose to allocate up to 10% of its WR annual apportionment to a designated Hunter Education account for activities at (2);

(4) For activities at (2):

(a) A State may apply up to a 90% Federal/10% non-Federal costs share, and

(b) Associated funds will be available for up to 5 FFYs.

(5) For ease of presentation in this document, we will refer to activities for acquiring land for, expanding, or constructing public target ranges that can use the 90% Federal/10% non-Federal cost share and funds available for 5 FFYs as “90/10/5” activities.

There is no requirement for a State to commit any funds for 90/10/5 activities, but if it chooses to do so, it may use the beneficial cost share and period of funding availability on those activities.

Table 1 describes the three funding sources available for 90/10/5 activities and how these activities compare to other eligible activities.

TABLE 1. FUNDING AMOUNTS, COST SHARE, AND FUNDING AVAILABILITY UNDER WR, BHE, AND EHE

Program/ Subprogram	Amount of apportioned funds that can be used for 90/10/5 activities	Cost share for 90/10/5 activities	Period of availability of funds for 90/10/5 activities	Amount of apportioned funds that can be used for traditional eligible activities (see 50 CFR 80 citations below)	Cost share for traditional eligible activities	Period of availability of funds for traditional eligible activities
	<i>NEW</i>	<i>NEW</i>	<i>NEW</i>			
Wildlife Restoration (WR)	Up to 10% of annual apportioned funds	Up to 90% Federal share; minimum 10% non-Federal share	5 FFYs	Up to 100% for purposes at 50 CFR 80.50(a)	75% Federal/25% non-Federal share	2 FFYs
		<i>NEW</i>	<i>NEW</i>			
Basic Hunter Education (BHE) ("Section 4")	Up to 100% of annual apportioned funds*	Up to 90% Federal share; minimum 10% non-Federal share	5 FFYs	Up to 100% for purposes at 50 CFR 80.50(b)**	75% Federal/25% non-Federal share	2 FFYs
		<i>NEW</i>	<i>NEW</i>			
Enhanced Hunter Education (EHE) ("Section 10")	Up to 100% of annual apportioned funds*	Up to 90% Federal share; minimum 10% non-Federal share	5 FFYs	Up to 100% for purposes at 50 CFR 80.50(c)**	75% Federal/25% non-Federal share	1 FFY

* It is currently eligible for a State to use BHE and EHE funds for acquiring land for, expanding, or constructing public target ranges.

** See 50 CFR 80.60 for additional funding options for BHE and EHE.

D. Does Pub. L. 116-17 add to or change the purpose under the Pittman-Robertson Wildlife Restoration Act? No. Even though 16 U.S.C. 669 currently includes a "Statement of Purpose," it was added by Pub. L. 106-553 and is applicable only to the Wildlife Conservation and Restoration Program (WCRP) and not to WR. Pub. L. 116-17 describes the purpose of the Target Practice and Marksmanship Training Support Act to "facilitate the construction and expansion of public target ranges, including ranges on Federal land managed by the Forest Service and the Bureau of Land Management." However, the purpose statement for Pub. L. 116-17 does not of itself amend the Wildlife Restoration Act. Therefore, there continues to be no stated "purpose" associated with the Wildlife Restoration Act.

E. What definition for "public target range" does Pub. L. 116-17 add to the Act?

For the purposes of the Pittman-Robertson Wildlife Restoration Act, "public target range" means a specific location that—

- (1) Is identified by a governmental agency for recreational shooting;
- (2) Is open to the public;
- (3) May be supervised; and
- (4) May accommodate archery or rifle, pistol, or shotgun shooting.

Notes: 1. Approval of a Federal award satisfies condition (1). 2. Public access is described in the WSFR Best Practices for Third-Party Agreements. 3. The term "archery" includes the use of crossbows. 4. Most of the definitions at 16 U.S.C. 669a are not applicable to WR. They were added by Pub. L. 106-553 (114 Stat. 2762A-118, December 21, 2000) and apply only to WCRP (see D). The addition of the term "public target range" at 16 U.S.C. 669a is the second term that is applicable to the Federal Aid in Wildlife Restoration Act relating to wildlife restoration projects. The other applicable definition is "wildlife-restoration project." However, Pub. L. 106-553 also inserted into the definition of "wildlife restoration project" "...includes the wildlife conservation and restoration program and..." This clause in the definition is also not applicable to the Federal Aid in Wildlife Restoration Act.

ADMINISTRATION

F. How will WSFR administratively manage amendments to the Wildlife Restoration Act that now allow a 90% Federal/10% non-Federal cost share and 5-year funding availability period for projects for acquiring land for, expanding, or constructing public target ranges? WSFR is working to establish three new subaccounts that will incorporate activities for acquiring land for, expanding, or constructing public target ranges with a cost share up to 90% Federal/10% non-Federal that will be available for expenditure and obligation for up to 5 years. One subaccount will be under BHE (subaccount 5251), one subaccount will be under EHE (subaccount 5241), and one subaccount will be for up to 10% of apportioned WR funds allocated to EHE for eligible purposes (WR/EHE subaccount 5252, see "Wildlife Restoration (4(b)) Funds and Public Target Range Activities"). (see Appendix, Account/Subaccount Funding for Public Target Range Activities)

According to Service Manual chapter 522 FW 17.6, BHE and EHE are considered the same subaccount for purposes of match. This interpretation (for match only) is extended to all subaccounts associated with 90/10/5 activities.

G. How is the 5-year funding availability period determined for funds used to acquire land for, expand, or construct public target ranges? Beginning October 1, 2019, the 5-year funding availability period begins on October 1 of the year in which the funds are apportioned and ends on September 30 of the fifth year. For example, for funds apportioned in FY 2020, the period of availability for obligation will be October 1, 2019 – September 30, 2024. Funds apportioned in FY 2021 will be available for obligation October 1, 2020 – September 30, 2025, etc. However, a State must notify their Regional WSFR Office to allocate funds to the appropriate subaccount the first FFY apportioned. No funds apportioned prior to FFY 2020 are eligible to use the 5-year funding availability period.

H. What happens to funds that a State allocates to a 5-year subaccount and either the funds remain unobligated at the end of the period of availability, or the funds are obligated and they cannot accomplish the project, or the project comes in under budget? It depends on the subaccount of the funds, the timing of their allocation or obligation to that subaccount, and safety margins. Nothing in Pub. L. 116-17 changes what happens to funds reverted from BHE, EHE, or WR.

If a State allocates BHE, EHE, or WR funds to one of the 5-year funding subaccounts, the funds are obligated, and the project either is not accomplished or funds are unspent...

(1) Within the first year of apportionment, the funds may be recovered back to the original account/subaccount for traditional eligible activities (see Table 1) or reassigned to a different 90/10/5 project.

(2) After the start of the second FFY of apportionment, the funds will go through the safety margins and one of the following will happen:

(a) Funds passing through the safety margin will recover to the assigned subaccount and be available for obligation to a subsequent award;

(b) Funds that exceed the safety margin for any FFY will revert and no longer be available for obligation. Funds reverting from EHE will revert to the WR account to be disbursed in the same manner as any other reverted EHE funds the following fiscal year. Funds reverting from BHE and allocated (up to 10% annually) WR will revert for carrying out the provisions of the Migratory Bird Conservation Act.

Funds that remain unobligated at the end of the 5 FFY period will revert.

I. When may a State begin using the advantages for cost share and funding availability as described in Pub. L. 116-17 and this guidance? WSFR will implement the new cost share and funding availability period benefits for acquiring land for, expanding, or constructing public target ranges starting with FFY 2020 apportionments (effective October 1, 2019). It is possible that the Service may not be able to complete the required changes to the Financial and Business Management System (FBMS) by October 1, 2019. If the system is not updated by October 1, 2019, FFY 2020 allocations requested by the State will be assigned by WSFR staff to the appropriate subaccount once the system allows the action. The State will not lose any benefits associated with the activities.

J. Why can't a State start using the cost share and funding availability benefits immediately? The new Pub. L. 116-17 makes the cost share and funding availability allowable under the Act, but WSFR must be able to implement the changes administratively. This requires WSFR staff to coordinate with staff that manage the Service's fiscal systems to establish three new subaccounts, set up safety margin procedures, and test the system to make sure it works. Then, systems staff must schedule the updates into a future production release. WSFR must coordinate with other offices for much of this work and timing is uncertain based on workload, testing results, and timing of update releases. Administratively, FFY 2019 is almost over. To ensure a successful transition and allow all States to fully access the new benefits afforded under the law, we will implement the changes effective the beginning of FFY 2020.

K. May a State amend an existing award any time after October 1, 2019 in order to apply the 90% Federal/10% non-Federal cost share and 5-year funding availability period to prior year funds? No. States must not apply the 90/10/5 model to funds apportioned in any year prior to the effective date of October 1, 2019 (FFY 2020).

L. May a State use funds apportioned in FFY 2020 and after to supplement a project for acquiring land for, expanding, or constructing a public target range that began under an award using funds apportioned in FFY 2019 and earlier? Yes. If the project needs additional funding the State may supplement the project with funds apportioned FFY 2020 or after, using the 90/10/5 model for only those funds. A State must not amend a prior award and expect to apply the 90% Federal/10% non-Federal cost share and have funds available for 5 FFYs.

For example: A State applies for an award in FFY 2018 to purchase 20 acres of property and construct a public target range facility. (This is 90/10/5 eligible for FFY 2020 forward as "acquiring land for" and "constructing" a public target range.) Work began in FFY 2018 and funds allocated to the project from FFYs 2018 and 2019 were enough to allow the State to enter into a contract for the land purchase, but it will need

funds from FFYs 2020 and 2021 to complete the purchase and construct the range. The State may use the FFY 2018 and 2019 awarded funds toward the land purchase and any funds allocated to any of the three 90/10/5 accounts in FFYs 2020 forward to pay for any additional costs associated with the project. An example scenario is in Table 2.

TABLE 2. EXAMPLE - 90/10/5 FUNDS SUPPLEMENTING A LONG-TERM PROJECT					
Project Costs:		FFY 2018	FFY 2019	FFY 2020	FFY 2021
		<i>Federal funds awarded</i>			
Land, 20 acres:	\$ 350,000	\$ 120,000	\$ 120,000	\$ 30,000	
Constructing range:	\$ 750,000	\$ 0		\$ 420,000	\$ 252,000
Total:	\$ 1.1 M				
State share:		\$ 40,000 (75/25)	\$ 40,000 (75/25)	\$ 50,000 (90/10)	\$ 28,000 (90/10)
Balance:		\$ 940,000	\$ 780,000	\$ 280,000	\$ 0

M. How will the Service determine if activities are eligible for funding under the 90/10/5 option?

(1) States must clearly demonstrate in a grant application how the proposed activities would provide increased capacity for target practice and marksmanship training at public target ranges. The activities must be for acquiring land for (see B(3)), expanding (see B(10)), or constructing (see B(7)) public ranges, or activities that directly support acquiring land for, expanding, or constructing public target ranges (see V)

(2) When a State acquires land for a public target range it can be for new construction and/or to expand an existing public target range. A project for expanding or constructing a public target range does not have to include acquiring land.

(3) Eligibility of some activities for 90/10/5 funding depend on the purpose. To be eligible for 90/10/5 funding a State must specifically demonstrate that the activity directly results in acquiring land for, expanding, or constructing a public target range. For activities for acquiring land for and constructing a new public target range, they must lead to increased capacity for target practice and marksmanship training at public target ranges. For activities at an existing target range, a State must justify they support a physical improvement to the existing public target range that adds to the utility of the range in a manner that ultimately increases range capacity to accommodate more participants.

(4) Please note that the regulations at 2 CFR 200 and 50 CFR 80 continue to apply, with the exception of the specific changes for 90/10/5 projects. For example, States must continue to apply the requirements for cost sharing (match) at 2 CFR 200.306 – .308 and .403, and States must still hold title to real property per 50 CFR 80.130.

N. Must a State submit grant application(s) for 90/10/5 activities separately from those that will continue to use the 75% Federal/25% non-Federal cost share? WSFR recommends that States, especially during the initial rollout, alert Regional WSFR office staff of their intentions early in the FFY and consider the advantages of submitting separate grant applications for 90/10/5 funding. Once a State notifies the Regional Office of its intentions for 90/10/5 funds, Regional WSFR offices will work with a State to determine the best approach for submitting an application(s) in such a way as to best facilitate awards processing and fiscal management.

BASIC HUNTER EDUCATION FUNDS (AKA Section 4(c)) AND ENHANCED HUNTER EDUCATION FUNDS (AKA Section 10) AND PUBLIC TARGET RANGE ACTIVITIES

O. What activities may a State use Basic Hunter Education funds for and what has changed? A State may use BHE funds for any eligible activity described at 50 CFR 80.50(b). These include constructing, operating, or maintaining existing or new public target ranges. The amendments under Pub. L. 116-17 do not add to the eligible activities under BHE, but allow a more advantageous cost share and extended period of availability for projects for acquiring land for, expanding, or constructing public target ranges.

P. What activities may a State use Enhanced Hunter Education funds for and what has changed? A State may use EHE funds for any eligible activity described at 50 CFR 80.50(c). These include enhanced construction and development of existing or new public target ranges. The amendments under Pub. L. 116-17 do not add to the eligible activities under EHE, but allow a more advantageous cost share and extended period of availability for projects for acquiring land for, expanding, or constructing public target ranges.

Q. How does Pub. L. 116-17 change the Federal/State cost shares in hunter education programs under the Wildlife Restoration Act? Pub. L. 116-17 will allow a State to use up to a 90% Federal/10% non-Federal cost share for projects for acquiring land for, expanding, or constructing public target ranges. These activities are eligible under the BHE Subprogram and the EHE Program, and will be identified administratively using the designated BHE (subaccount 5251), EHE (subaccount 5241), and WR/EHE (subaccount 5252) subaccounts.

NOTE: For all other activities under WR, BHE, or EHE that are not allocated to the designated subaccounts for 90/10/5 activities, the cost share remains at 75% Federal/25% non-Federal.

R. May a State apply the same cost share to operation and maintenance for public target ranges? No. The cost share for operation and maintenance activities (O&M) or anything other than acquiring land for, expanding, or constructing public target ranges will continue to use a 75% Federal/25% non-Federal cost share. Costs for all activities must be appropriately allocated to the appropriate subaccounts.

If a single project includes activities related to acquiring land, expanding, or constructing a public target range and also O&M, then O&M activities must apply the 75% Federal/25% non-Federal cost share. O&M activities must not be included for 90/10/5 funding.

S. How long is funding available for acquiring land for, expanding, or constructing public target ranges? Pub. L. 116-17 amends EHE to allow funds to be available for these purposes for up to 5 years. The provisions in the law that allow a State to allocate up to 10% of WR funds to be used for certain public target range activities (see W), also allows those funds to be available for up to 5 years. Pub. L. 116-17 does not specifically state a 5-year funding availability period for BHE funds. However, we can legally interpret the language in the "Exception" clause to allow "amounts provided for acquiring land for, constructing, or expanding a public target range" to be available for expenditure and obligation for 5 fiscal years, which would include BHE funds used for this purpose. Therefore, WSFR's legal interpretation is that all three funding sources used to acquire land for, expand, or construct public target ranges will be available for 5 fiscal years. Funds used for any other eligible purpose under these programs remain available for obligation for the currently allowed periods.

Funds must be allocated to the 90/10/5 subaccounts in the first year funds become available, by the deadlines prescribed by WSFR. The 5-year funding availability period begins the first day of the FFY in which funds are apportioned. It does not begin on the date funds are allocated to a 90/10/5 subaccount.

T. Must a project for expanding or constructing a public target range be on public land? No. Projects to expand or construct public target ranges may be on either publicly or privately owned land (see 50 CFR 80.132). A State fish and wildlife agency must hold title to an ownership interest in real property acquired

under a grant to the extent possible under State law (see 50 CFR 80.130). If the project is not on property owned and controlled by the State fish and wildlife agency, the agency must enter into a legally binding agreement with the third party that addresses all applicable requirements and responsibilities. The agency must also address how they will monitor the facility to ensure compliance. Items to be considered in a legally binding agreement are described at: [WSFR Best Practices for Third-Party Agreements](#).

U. Is all construction at public target ranges eligible for 90/10/5 funding? No. Only construction that meets the definition in this guidance (see B(7)) to build a new public target range, or construction associated with expanding an existing public target range (see B(10)), is eligible for 90/10/5 funding. Other construction at a public target range may still be eligible under BHE and EHE using 75% Federal/25% non-Federal funds, but not as 90/10/5 funding.

V. When acquiring land for, expanding, or constructing a public target range, to what supporting activities may a State apply the 90% Federal/10% non-Federal cost share and 5 year period of availability?

(1) There are many activities that support a project for acquiring land for, expanding, or constructing a public target range that are essential to the primary purpose. As long as these activities, as described here, directly support the acquisition, expansion, or construction of a public target range, they are eligible for the 90/10/5 advantage.

(a) Supplemental activities eligible for the 90/10/5 advantage may include preliminary activities in anticipation of acquiring land for, expanding, or constructing public target ranges. Examples are planning, compliance, appraisals, engineering, and other associated activities. A State, in the grant application, must clearly describe how the preliminary activities connect to the purpose of acquiring land for, expanding, or constructing a public target range in order to utilize the 90/10/5 advantage.

(b) Auxiliary activities and amenities that support the primary project and are necessary to the public's ability to fully utilize the public target range may include public rest rooms, storage facilities, protective bunkers or barriers, signs and markers, roads and parking, and installing utilities; or improvements necessary to prevent a facility from becoming inoperable or having a diminished capacity.

(c) Personnel costs directly associated with the 90/10/5 activities and supporting activities described in this guidance are eligible for 90/10/5 funding.

(2) Activities described at (1), when not associated with a project for acquiring land for, expanding, or constructing a public target range are not eligible for 90/10/5 funding. States must continue to use the 75% Federal/25% non-Federal cost share and funds are available as described in Table 1 and at 16 U.S.C. 669.

(3) Personnel costs not associated with acquiring land for, expanding, or constructing a public target range are not eligible to for 90/10/5 funding. For example:

(a) A target range coordinator may be paid using 90/10/5 funding only for the time spent working directly on an acquisition for a public target range or a project to expand or construct a public target range. The time a target range coordinator spends operating, maintaining and controlling the range, training participants, or supervising range activities must use the 75% Federal/25% non-Federal cost share.

(b) Costs for long-term monitoring of the expanded or constructed public target range is not eligible for 90/10/5 funding.

NOTE: States should consult with their Regional WSFR office to determine how to apply for funding this type of long-term project.

WILDLIFE RESTORATION (4(b)) FUNDS AND PUBLIC TARGET RANGE ACTIVITIES

For a summary of the process for allocating funds from WR for purposes of acquiring land for, expanding, or constructing public target ranges, see Figure 1.

W. May a State allocate any of its apportioned Wildlife Restoration (4(b)) funds for 90/10/5 public target range activities? Yes. The amended Pittman-Robertson Wildlife Restoration Act will allow a State to choose to allocate up to 10% of their annual WR apportioned funds, to be "combined with Enhanced Hunter Education funds" (underlined language is directly from Pub. L. 116-17) for 90/10/5 activities. The desired allocation, up to 10% of the WR apportioned funds, are transferred to a Hunter Education subaccount (WR/EHE, subaccount 5252) that supplements EHE funding for 90/10/5 projects. They are no longer WR funds once allocated to the WR/EHE subaccount. Some amount of EHE funds must be included with WR/EHE projects in order to meet the requirement to be "combined with EHE funds." The public law does not set a minimum amount required from either subaccount, and WSFR will not impose a minimum.

The ability for States to allocate up to 10% of their apportioned WR funds to an Enhance Hunter Education subaccount (which is separate from the EHE subaccount for the same purposes) for 90/10/5 projects increases funding options for a State wanting to dedicate additional funds to these specific public target range activities. If a State chooses this option, it may allocate any amount up to the 10% maximum. Once a State determines to allocate WR funds for any 90/10/5 activities, funds must be allocated to the designated Wildlife Restoration/Enhanced Hunter Education (WR/EHE) subaccount during the first fiscal year that funds are apportioned. Allocated WR funds must supplement EHE funds also allocated for 90/10/5 activities. Funds allocated to the WR/EHE subaccount must be used for 90/10/5 activities and cannot be used for any other eligible EHE activities that are not for acquiring land for, expanding, or constructing public target ranges.

Any apportioned WR funds that are not allocated to the Hunter Education subaccount for 90/10/5 activities may be used for any eligible WR purpose (see 50 CFR 80.50(a)) as the State typically would. Nothing has changed regarding eligible activities for the apportioned WR funds that are not allocated the WR/EHE subaccount.

X. May a State include any funds it transfers from BHE to WR in the baseline amount of apportioned funds used to determine the maximum 10% that may be allocated for 90/10/5 activities? No. A State must not include any funds it transfers from BHE to WR when determining the 10% maximum allowable for allocation to the WR/EHE subaccount.

Y. Once a State allocates funds from Wildlife Restoration to the WR/EHE subaccount, can it use those funds for any eligible Enhanced Hunter Education purpose? No. A State must only use funds allocated from WR to the designated WR/EHE subaccount for acquiring land for, expanding, or constructing public target ranges. There are no exceptions.

Z. How would a State identify how much, if any, Wildlife Restoration funds it intends to allocate to acquiring land for, expanding, or constructing public target ranges under the WR/EHE subaccount? A State must determine and notify the WSFR Regional Office during the first fiscal year of apportionment how much WR funds, within the 10% cap, it will allocate to the WR/EHE subaccount for acquiring land for, expanding, or constructing public target ranges. States should follow deadlines given by the Regional WSFR Office to ensure that the funds can be administratively assigned to the WR/EHE subaccount. A State may allocate funds during the first year without obligating funds to a specific project.

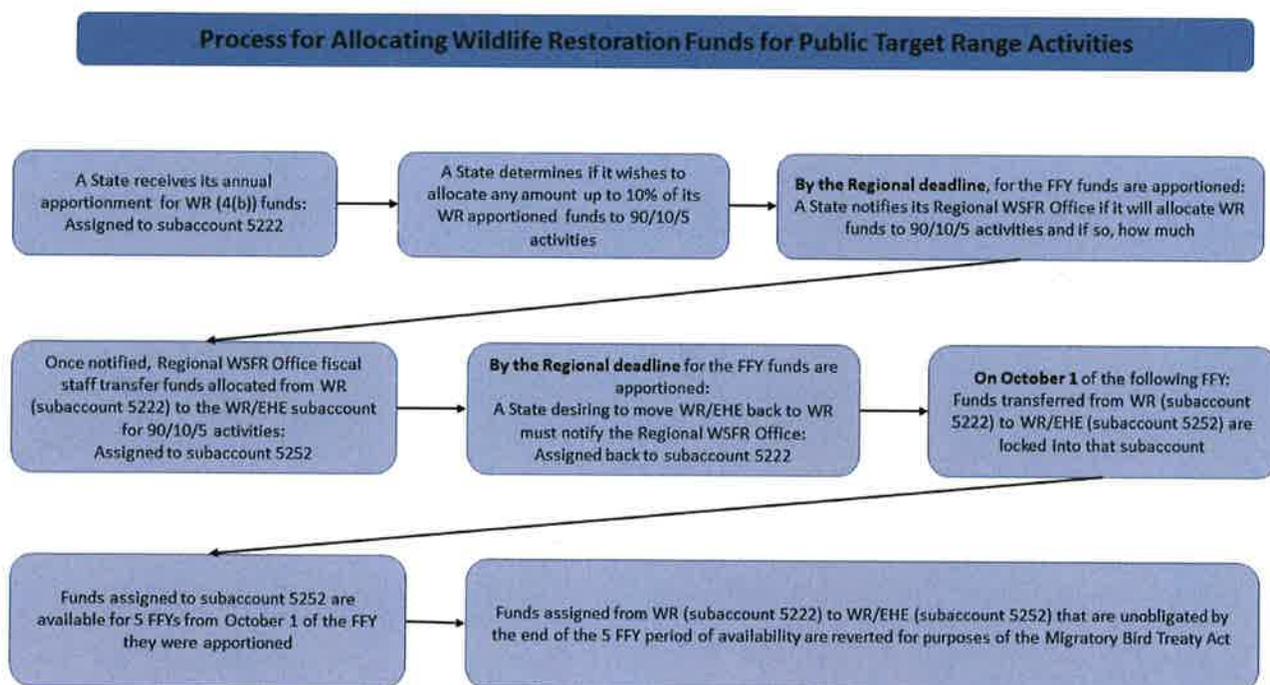
AA. If Wildlife Restoration funds are available to the State for two fiscal years, why can't a State allocate funds to the WR/EHE subaccount for acquiring land for, expanding, or constructing public target ranges during the second fiscal year? A State must allocate funds from the WR apportionment to

the WR/EHE subaccount and obligate those funds during the first year the funds are apportioned in order to set that year's safety margin. Safety margins are set at the end of each FFY for funds apportioned that year. During the second year, apportioned funds are still available for WR projects, but we now consider it "old" money and a State cannot allocate it to the WR/EHE subaccount.

BB. Are funds allocated from the WR account to the WR/EHE subaccount included in the safety margin for WR at the end of the first fiscal year? No. Once up to 10% of a WR apportionment is allocated to the WR/EHE subaccount, it is totally removed from the WR account and is not consider when establishing the WR safety margin at the end of the first fiscal year. Funds allocated to the WR/EHE subaccount become part of the safety margin for the WR/EHE subaccount.

CC. When may a State change its mind and move funds allocated from WR to the WR/EHE subaccount for 90/10/5 activities back to WR? A State may only move funds that it has allocated from WR to the WR/EHE subaccount back to WR in the FFY in which the funds are apportioned. States should follow deadlines given by the Regional WSFR Office to ensure that the funds can be administratively assigned back to the WR subaccount. The amount of funds that a State moves back to WR cannot exceed the total originally allocated from WR to the WR/EHE subaccount. A State may allocate funds from WR to the WR/EHE fund, or from WR/EHE back to WR, more than once during the first year according to Regional Office guidance. After the first year, safety margins are set and funds must remain in the subaccounts to which a State has allocated them. Unused funds must then pass through safety margins to determine if they are available to the State or must revert.

FIGURE 1.



STATE/FEDERAL RELATIONSHIPS

DD. Does the language in Pub. L. 116-17 that encourages projects on Federal lands managed by the Forest Service (FS) and the Bureau of Land Management (BLM) mean that a State may use FS and BLM funds as match? No. In the "Findings" in Pub. L. 116-17, it is the sense of Congress that in recent years Federal lands have been closed to target practice and marksmanship training and that providing opportunities on both Federal and non-Federal land is desired. The purpose emphasizes Congressional intent to facilitate the construction and expansion of public target ranges, including ranges on Federal land managed by the FS and BLM. However, the non-Federal cost share must still be from a non-Federal source.

EE. May a State pursue a public target range project with Federal land-management agencies other than the FS and BLM? Yes. The law does not limit projects to the FS and BLM. A State may work with other Federal land-management agencies on projects for expanding, or constructing public target ranges.

FF. What other requirements related to Federal agencies are included in the law? In addition, Congress expects the FS and BLM to further cooperate by assisting States and local governments with managing solid waste byproducts of target ranges (e.g., lead or brass) to ensure compliance with Federal law and for continued use of the land for target practice and marksmanship training. (Pub. L. 116-17, Sec. 5) States must cooperate with Federal agencies to ensure continuing compliance with Federal requirements.

September 27, 2019
U.S. Fish & Wildlife Service
Wildlife & Sport Fish Restoration Program

APPENDIX

Account/Subaccount Funding for Public Target Range Activities

Updated: 9/26/19



Subaccount 5231: Enhanced Hunter Education Program Funding¹

- 1-year funds.
- 75% Federal / 25% non-Federal.
- Reverted funds are reappropriated (as WR funds) the following year to those States eligible to receive them.

States may choose to allocate all or part of their EHE apportionment for activities for acquiring land for, expanding, or constructing public target ranges. (Subaccount 5241)



Subaccount 5222: Wildlife Restoration Program Funding

- 2-year funds.
- 75% Federal / 25% non-Federal.
- Reverted funds are returned to the USFWS to support the Migratory Bird Conservation Act.

States may choose to allocate not more than 10% of their current year WR apportionment to be combined with EHE funds for acquiring land for, expanding, or constructing public target ranges. (Subaccount 5252)



States may choose to allocate their BHE apportionment on WR eligible activities. (50 CFR 80.60)



Subaccount 5221: Basic Hunter Education Subprogram Funding

- 2-year funds.
- 75% Federal / 25% non-Federal.
- Reverted funds are returned to the USFWS to support the Migratory Bird Conservation Act.

States may choose to allocate all or part of their BHE apportionment for acquiring land for, expanding, or constructing public target ranges. (Subaccount 5251)



Subaccount 5241: Enhanced Hunter Education funds allocated for acquiring land for, expanding, or constructing public target ranges. *NEW

- 5-year funds.
- 90% Federal / 10% non-Federal.
- Reverted funds are reappropriated (as WR funds) the following year to those States eligible to receive them.



Subaccount 5252: Wildlife Restoration funds allocated for acquiring land for, expanding, or constructing public target ranges. *NEW

- 5-year funds.
- 90% Federal / 10% non-Federal.
- Reverted funds are returned to the USFWS to support the Migratory Bird Conservation Act.



Subaccount 5251: Basic Hunter Education funds allocated for acquiring land for, expanding, or constructing public target ranges. *NEW

- 5-year funds.
- 90% Federal / 10% non-Federal.
- Reverted funds are returned to the USFWS to support the Migratory Bird Conservation Act.



Account 5250: WR and Basic Hunter Education funds for 90/10/5 Activities? *NEW

¹If the current year's apportionment of Basic Hunter Education funding (5221 and 5251) is fully obligated for activities listed at 50 CFR 80.50(b), then the State may use its current year's apportionment of Enhanced Hunter Education funds (5231) for eligible activities related to Wildlife Restoration, Basic Hunter Education, or Enhanced Hunter Education. (see 50 CFR 80.60)

²Account to be used for managing funds allocated to subaccounts 5252 and/or 5251 in the event that those subaccount funds are reverted.