

Comments

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

- (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for a Stay of Deportation or Removal.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I-246, ICE.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individual or Households, Business or other non-profit. The information collected on the I-246 is necessary for ICE to make a determination that the eligibility requirements for a request for a stay of deportation or removal are met by the applicant.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: ICE estimates a total of 4,650 responses at 30 minutes (.5 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 2,325 annual burden hours.

Dated: April 13, 2020.

Scott Elmore,

PRA Clearance Officer.

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-6164-N-04]

Notice of Regulatory Waiver Requests Granted for the Fourth Quarter of Calendar Year 2019

AGENCY: Office of the General Counsel, HUD.

ACTION: Notice.

SUMMARY: Section 106 of the Department of Housing and Urban Development Reform Act of 1989 (the HUD Reform Act) requires HUD to publish quarterly **Federal Register** notices of all regulatory waivers that HUD has approved. Each notice covers the quarterly period since the previous **Federal Register** notice. The purpose of this notice is to comply with the requirements of section 106 of the HUD Reform Act. This notice contains a list of regulatory waivers granted by HUD during the period beginning on October 1, 2019 and ending on December 31, 2019.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact Aaron Santa Anna, Acting Associate General Counsel for Legislation and Regulations, Department of Housing and Urban Development, 451 Seventh Street SW, Room 10276, Washington, DC 20410-0500, telephone 202-708-3055 (this is not a toll-free number). Persons with hearing- or speech-impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800-877-8339.

For information concerning a particular waiver that was granted and for which public notice is provided in this document, contact the person whose name and address follow the description of the waiver granted in the accompanying list of waivers that have been granted in the fourth quarter of calendar year 2019.

SUPPLEMENTARY INFORMATION: Section 106 of the HUD Reform Act added a new section 7(q) to the Department of Housing and Urban Development Act (42 U.S.C. 3535(q)), which provides that:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;

2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary or equivalent rank, and the person to whom authority to waive is delegated must also have authority to issue the particular regulation to be waived;

3. Not less than quarterly, the Secretary must notify the public of all waivers of regulations that HUD has approved, by publishing a notice in the **Federal Register**. These notices (each covering the period since the most recent previous notification) shall:

- a. Identify the project, activity, or undertaking involved;
- b. Describe the nature of the provision waived and the designation of the provision;
- c. Indicate the name and title of the person who granted the waiver request;
- d. Describe briefly the grounds for approval of the request; and
- e. State how additional information about a particular waiver may be obtained.

Section 106 of the HUD Reform Act also contains requirements applicable to waivers of HUD handbook provisions that are not relevant to the purpose of this notice.

This notice follows procedures provided in HUD's Statement of Policy on Waiver of Regulations and Directives issued on April 22, 1991 (56 FR 16337). In accordance with those procedures and with the requirements of section 106 of the HUD Reform Act, waivers of regulations are granted by the Assistant Secretary with jurisdiction over the regulations for which a waiver was requested. In those cases in which a General Deputy Assistant Secretary granted the waiver, the General Deputy Assistant Secretary was serving in the absence of the Assistant Secretary in accordance with the office's Order of Succession.

This notice covers waivers of regulations granted by HUD from October 1, 2019 through December 31, 2019. For ease of reference, the waivers granted by HUD are listed by HUD program office (for example, the Office of Community Planning and Development, the Office of Fair Housing and Equal Opportunity, the Office of Housing, and the Office of Public and Indian Housing, etc.). Within each program office grouping, the waivers are listed sequentially by the regulatory section of title 24 of the Code of Federal Regulations (CFR) that is being waived. For example, a waiver of a provision in 24 CFR part 58 would be listed before a waiver of a provision in 24 CFR part 570.

Where more than one regulatory provision is involved in the grant of a particular waiver request, the action is listed under the section number of the first regulatory requirement that appears in 24 CFR and that is being waived. For example, a waiver of both § 58.73 and § 58.74 would appear sequentially in the listing under § 58.73.

Waiver of regulations that involve the same initial regulatory citation are in time sequence beginning with the earliest-dated regulatory waiver.

Should HUD receive additional information about waivers granted during the period covered by this report (the fourth quarter of calendar year 2019) before the next report is published (the first quarter of calendar year 2020), HUD will include any additional waivers granted for the fourth quarter in the next report.

Accordingly, information about approved waiver requests pertaining to HUD regulations is provided in the Appendix that follows this notice.

Dated: April 13, 2020.

Jerome Compton,
General Counsel.

Appendix

Listing of Waivers of Regulatory Requirements Granted by Offices of the Department of Housing and Urban Development October 1, 2019 Through December 31, 2019

Note to Reader: More information about the granting of these waivers, including a copy of the waiver request and approval, may be obtained by contacting the person whose name is listed as the contact person directly after each set of regulatory waivers granted.

The regulatory waivers granted appear in the following order:

- I. Regulatory Waivers Granted by the Office of Community Planning and Development
- II. Regulatory Waivers Granted by the Office of Housing—Federal Housing Administration (FHA)
- III. Regulatory Waivers Granted by the Office of Public and Indian Housing

I. Regulatory Waivers Granted by the Office of Community Planning and Development

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

- *Regulation:* 24 CFR 92.205(e)(2) One-Year Extension of Project Completion.

Project/Activity: The city of Jersey City, New Jersey, requested a waiver of 24 CFR 92.205(e)(2) for Garden State Episcopal (Scattered Sites) NRP III to permit the project to be completed more than five years after the date of HOME commitment.

Nature of Requirement: The regulation at 24 CFR 92.205(e)(2) requires that a project be completed within four years of the date of commitment of HOME funds or the project is considered terminated and the participating jurisdiction must repay all HOME funds invested. The regulation also permits HUD to grant an extension of up to one year if the participating jurisdiction can demonstrate that the project will be completed within one year.

Granted By: David C. Woll Jr., Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: December 17, 2019.

Reason Waived: The city requested, and HUD approved a one-year extension of the HOME four-year project completion deadline for the Garden State Episcopal (Scattered Sites) NRP III to November 14, 2019.

However, the project could not be completed within five years of the date of the HOME commitment because the homebuyer requested re-inspection for radon testing. The reinspection and closing were scheduled after the deadline. This waiver permitted the city to complete the project, retain HOME units in its affordable housing inventory, and avoid repayment of HOME funds.

Contact: Virginia Sardone, Director, Office of Affordable Housing Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7160, Washington, DC 20410, telephone (202) 708-2684.

- *Regulation:* 24 CFR 92.252(d)(1) Utility Allowance Requirements

Project/Activity: Contra Costa County, California, requested a waiver of 24 CFR 92.252(d)(1) to allow use of utility allowance established by local public housing agency (PHA) for a HOME-assisted project—Elaine Null and Riley Court Apartments.

Nature of Requirement: The regulation at 24 CFR 92.252(d)(1) requires participating jurisdictions to establish maximum monthly allowances for utilities and services (excluding telephone) and update the allowances annually. However, participating jurisdictions are not permitted to use the utility allowance established by the local public housing authority for HOME-assisted rental projects.

Granted By: David C. Woll Jr., Principal Deputy Assistant Secretary for Community Planning and Development.

Date Granted: October 18, 2019.

Reason Waived: The HOME requirements for establishing a utility allowances conflict with Project Based Voucher program requirements. It is not possible to use two different utility allowances to set the rent for a single unit and it is administratively burdensome to require a project owner to establish and implement different utility allowances for HOME-assisted units and non-HOME assisted units in a project.

Contact: Virginia Sardone, Director, Office of Affordable Housing Programs, Office of Community and Planning Development, Department of Housing and Urban Development, 451 Seventh Street SW, Room 7160, Washington, DC 20410, telephone (202) 708-2684.

II. Regulatory Waivers Granted by the Office of Housing—Federal Housing Administration (FHA)

For further information about the following regulatory waivers, please see the name of the contact person that immediately follows the description of the waiver granted.

- *Regulation:* 24 CFR 219.220(b)(1995).

Project/Activity: Kenmore Gardens, FHA Project Number 042-44014T; and Kenmore Village, FHA Project Number 042-35589, Cleveland, OH. Kenmore Gardens Limited Partnership and Kenmore Village Limited Partnership (Owner) seeks approval to defer repayment of the Flexible Subsidy Operating Assistance Loans on the subject projects.

Nature of Requirement: The regulation at 24 CFR 219.220(b) (1995), which governs the repayment of operating assistance provided under the Flexible Subsidy Program for Troubled Properties, states “Assistance that has been paid to a project owner under this subpart must be repaid at the earlier of the expiration of the term of the mortgage, termination of mortgage insurance, prepayment of the mortgage, or a sale of the project.”

Granted by: Brian D. Montgomery, Assistant Secretary for Housing—Federal Housing Commissioner, H.

Date Granted: December 5, 2019.

Reason Waived: The owners requested and were granted waiver of the requirement to repay the Flexible Subsidy Operating Assistance Loans in full when they became due. Deferring the loan payments will preserve these affordable housing resources for an additional 30 years through the execution and recordation of a Rental Use Agreement.

Contact: Crystal Martinez, Senior Account Executive, Office of Field Management and Program Administrative Division, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410, telephone (202) 402-3718.

- *Regulation:* 24 CFR 219.220(b)(1995).

Project/Activity: Pierson Hills I Apartments, FHA Project Number 072-44015T, Peoria, IL. Upgrade Development Corporation (owner) seeks approval to defer repayment of the Flexible Subsidy Operating Assistance Loan on the subject project.

Nature of Requirement: The regulation at 24 CFR 219.220(b) (1995), which governs the repayment of operating assistance provided under the Flexible Subsidy Program for Troubled Properties, states “Assistance that has been paid to a project owner under this subpart must be repaid at the earlier of the expiration of the term of the mortgage, termination of mortgage insurance, prepayment of the mortgage, or a sale of the project.”

Granted by: Brian D. Montgomery, Assistant Secretary for Housing—Federal Housing Commissioner, H.

Date Granted: December 5, 2019.

Reason Waived: The owner requested and was granted waiver of the requirement to repay the Flexible Subsidy Operating Assistance Loan in full when it became due. Deferring the loan payment will preserve the affordable housing resource for an additional 20 years through the execution and recordation of a Rental Use Agreement.

Contact: Crystal Martinez, Senior Account Executive, Office of Field Management and Program Administrative Division, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410, telephone (202) 402-3718.

- *Regulation:* 24 CFR 232.7.

Project/Activity: Marjorie House FHA #113-22278, is an Assisted Living/Memory Care facility. The facility does not meet the requirements of 24 CFR 232.7 “Bathroom” of FHA’s regulations. The project location is McMinnville, Oregon.

Nature of Requirement: The regulation at 24 CFR 232.7 mandates in a board and care

home or assisted living facility that not less than one full bathroom must be provided for every four residents. Also, the bathroom cannot be accessed from a public corridor or area.

Granted By: Brian D. Montgomery, Assistant Secretary for Housing—Federal Housing Commissioner.

Date Granted: October 19, 2019.

Reason Waived: The project currently has a resident to shower ratio of 9:1. The memory care residents require assistance with bathing. These residents are housed in units in a secure, lock-down area, with a half-bathroom each and access to the shower rooms through a hallway. The project meets the State of Oregon licensing requirements for bathing and toileting facilities.

Contact: John Hartung, Director of Policy, Risk Analysis & Lender Relations, Office of Residential Care Facilities, Office of Healthcare Programs, Office of Housing, Department of Housing and Urban Development, 1222 Spruce Street, 3rd Floor, St. Louis, MO 63103, Telephone (314) 418-5238.

• *Regulation:* 24 CFR 881.205(c).

Project/Activity: Bryn Mawr Apartments, FHA Project Number 071-35760, Chicago, IL. Bryn Mawr Preservation Limited Partnership, an Illinois limited partnership (Proposed Owner) seeks approval to allow for new equity associated with the four percent tax credits and bonds from Illinois Housing Development Authority to be infused into the project to be considered as “owner initial equity” for the purpose of calculating distributions.

Nature of Requirement: The regulation at 24 CFR 881.205 (c) defines terms applicable to determining the allowable distribution, and under this section “an owner’s equity investment in a project is deemed to be 10 percent of the replacement cost of the part of the project attributable to dwelling use accepted by HUD at cost certification, unless the owner justifies a higher equity contribution by cost certification documentation in accordance with HUD mortgage insurance procedures.”

Granted by: Brian D. Montgomery, Assistant Secretary for Housing—Federal Housing Commissioner, H.

Date Granted: November 13, 2019.

Reason Waived: The proposed owner requested and was granted waiver of the requirement to allow for “new” equity infused by Tax Credits and bonds to be included in the calculation of the Owner’s Distribution to be considered under the allowable equity as described in section 24 CFR 881.205 (c). Granting this waiver is consistent with both programmatic objectives and the Secretary’s goal of maintaining affordable housing for low-income persons.

Contact: Crystal Martinez, Senior Account Executive, Office of Field Management and Program Administrative Division, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410, telephone (202) 402-3718.

III. Regulatory Waivers Granted by the Office of Public and Indian Housing

For further information about the following regulatory waivers, please see the name of

the contact person that immediately follows the description of the waiver granted.

• *Regulation:* 2 CFR 200.311(c)(1).

Project/Activity: The New York City Housing Authority (NYCHA) requested that HUD grant it an exception from the requirement at 2 CFR 200.311(c)(1) to compensate HUD for HUD’s percentage of participation in the costs of the Williams Plaza and Independence public housing properties. This request was made pursuant to a request by NYCHA to retain these properties (outside of public housing requirements) under 2 CFR 200.311. NYCHA (and these properties) are located in New York, NY.

Nature of Requirement: 2 CFR 200.311(c)(1) states that “[w]hen real property is no longer needed for the originally authorized purpose,” HUD must provide disposition instructions whereby a non-Federal entity (in this case, a Public Housing Agency (PHA)) can retain title after compensating HUD. “The amount paid to [HUD] will be computed by applying [HUD’s] percentage of participation in the cost of the original purchase (and costs of any improvements) to the fair market value of the property.”

Granted By: R. Hunter Kurtz, Assistant Secretary, Public and Indian Housing, granted this exception pursuant to 2 CFR 200.102(b). Under this authority, HUD has the authority to grant requests to the compensation requirement of 2 CFR 200.311(c)(1) on a case-by-case basis.

Date Granted: November 18, 2019.

Reason Waived: NYCHA did not use public housing funds to acquire the Williams Plaza and Independence properties. HUD’s percentage of participation in the cost of the Williams Plaza and Independence properties was 39.95% and 38.14%. NYCHA justified its request for the exception to compensate HUD on its intent to operate the properties as affordable housing outside of the public housing program. Specifically, NYCHA indicated it would add all units at these properties to a Section 8 project-based voucher (PBV) HAP that was executed on March 16, 2010 that was already in effect for others unit at the properties. HUD granted this request based on the continued future use of the properties as housing for low-income families through the PBV program and the relatively low percentage of HUD funds in these properties. HUD’s approval required NYCHA to record a 40-year use restriction against the properties that required the properties to be operated as Section 8 PBV housing for low-income families.

Contact: Robert E. Mulderig, Deputy Assistant Secretary, Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 4130, Washington, DC 20410, telephone (202) 402-4780.

• *Regulation:* 24 CFR 905.314(c) and (d).

Project/Activity: The Housing Authority of the County of Lackawanna (HACL) requested that HUD grant a waiver on the requirement of 24 CFR 905.314(c) limiting the total development cost (TDC limit) of a new construction project and 24 CFR 905.314(d)

limiting the housing construction cost (HCC), both determined annually by the U.S.

Department of Housing and Urban Development. This request was made due to the capital planning requirements of the Project in constructing all handicap-accessible units and the inability to achieve economies of scale on a project this small.

Nature of Requirement: 24 CFR 905.314(c) and (d) requires that Public Housing funds, including Capital Funds, may not be used to pay for Housing Construction Cost (HCC) and Community Renewal Costs in excess of the Total Development Cost (TDC) limit. Similarly, the regulation at 24 CFR 905.314(d) requires that a PHA not use Capital Funds to pay for HCC in excess of the amount determined under paragraph (d) (2) of that section.

Granted By: R. Hunter Kurtz, Assistant Secretary, Public and Indian Housing, granted this pursuant to 24 CFR 905.314(c) and (d). In accordance with 24 CFR 5.110, good cause was determined to waive the TDC and HCC limits due to the additional construction costs associated with the accessibility requirements of the project.

Date Granted: December 16, 2019.

Reason Waived: HACL submitted documentation by an engineering firm, based on the construction of accessible units, in which each unit required extra space for dimensional allowances for wheelchair occupants, accessible cabinets, tubs, handrails and ramps, and sidewalk modifications. Thus, the construction cost increased by \$157,600, exceeding the TDC and HCC limits, per the engineering firm. Good cause exists to waive TDC and HCC limits due to additional construction and the inability to economies of scale on a project this small.

Contact: Robert E. Mulderig, Deputy Assistant Secretary, Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 4130, Washington, DC 20410, telephone (202) 402-4780.

• *Regulation:* 24 CFR 905.314(c).

Project/Activity: The Housing Authority of New Orleans (HANO) requested that HUD grant a waiver on the requirement of 24 CFR 905.314(c) limiting the total development cost (TDC limit) of a new construction project as determined annually by the U.S. Department of Housing and Urban Development.

Nature of Requirement: 24 CFR 905.314(c) and (d) requires that Public Housing funds, including Capital Funds, may not be used to pay for Housing Construction Cost (HCC) and Community Renewal Costs in excess of the Total Development Cost (TDC) limit.

Granted By: R. Hunter Kurtz, Assistant Secretary, Public and Indian Housing, granted this pursuant to 24 CFR 905.314(c). In accordance with 24 CFR 5.110, good cause was determined to waive the TDC limits and to accommodate the additional construction costs the site’s redevelopment was divided into two phases to increase fundability.

Date Granted: December 27, 2019.

Reason Waived: HANO submitted a letter requesting a waiver which stated that if the Choice Neighborhoods funds used for

acquisition were not included in the calculation for TDC, the TDC limit would not have exceeded amongst other items.

Contact: Robert E. Mulderig, Deputy Assistant Secretary, Office of Public Housing Investments, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 4130, Washington, DC 20410, telephone (202) 402-4780.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS-HQ-MB-2018-0048; FXMB 1232090000//201//FF09M29000]

List of Bird Species To Which the Migratory Bird Treaty Act Does Not Apply

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: We, the U.S. Fish and Wildlife Service, are publishing an amended list of the nonnative bird species that have been introduced by humans into the United States or U.S. territories and to which the Migratory Bird Treaty Act (MBTA) does not apply. The Migratory Bird Treaty Reform Act (MBTRA) of 2004 amends the MBTA by stating that the MBTA applies only to migratory bird species that are native to the United States or U.S. territories, and that a native migratory bird species is one that is present as a result of natural biological or ecological processes. The MBTRA requires that we publish a list of all nonnative, human-introduced bird species to which the MBTA does not apply. We first published a list in 2005. We update the 2005 list with this notice. This notice identifies those species belonging to biological families referred to in treaties the MBTA implements that are not protected because their presence in the United States or U.S. territories is solely the result of intentional or unintentional human-assisted introductions. This notice presents an updated list of species not protected by the MBTA, which reflects current taxonomy, removes one species that no longer occurs in a protected family, and removes two species as a result of new distributional records documenting their natural occurrence in the United States.

FOR FURTHER INFORMATION CONTACT: Eric L. Kershner, Chief, Branch of Conservation, Permits, and Regulations; Division of Migratory Bird Management; U.S. Fish and Wildlife Service; MS: MB;

5275 Leesburg Pike, Falls Church, VA 22041-3803; (703) 358-2376.

SUPPLEMENTARY INFORMATION:

What is the purpose of this notice?

The purpose of this notice is to provide the public an updated list of “all nonnative, human-introduced bird species to which the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*) does not apply,” as described in the MBTRA of 2004 (Division E, Title I, Sec. 143 of the Consolidated Appropriations Act, 2005; Pub. L. 108-447). The MBTRA states that “[a]s necessary, the Secretary may update and publish the list of species exempted from protection of the Migratory Bird Treaty Act.” The Service published the initial list required by the MBTRA on March 15, 2005 (70 FR 12710).

This notice is strictly informational. It merely updates our 2005 list of the bird species that are included in the four migratory bird treaties (see below) but to which the MBTA does not apply. The presence or absence of a species on this list has, by itself, no legal effect. This list does not change the protections that any of these species might receive under other international agreements and statutes, such as the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES; T.I.A.S. 8249), the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), or the Wild Bird Conservation Act of 1992 (16 U.S.C. 4901 *et seq.*). Regulations implementing the MBTA are in parts 10, 20, and 21 of title 50 of the Code of Federal Regulations (CFR). The list of migratory birds covered by the MBTA is located at 50 CFR 10.13. Elsewhere in today’s **Federal Register**, we publish a final rule to update the list of migratory bird species protected under the MBTA at 50 CFR 10.13; that rule contains information on the four migratory bird treaties between the United States and four neighboring countries (Great Britain (for Canada), Mexico, Russia, and Japan).

What was the response of the public to the draft list?

On November 28, 2018, we published in the **Federal Register** (83 FR 61161) a notice announcing a draft list of the nonnative, human-introduced bird species to which the MBTA does not apply. We solicited public comments on the draft list for 60 days, ending on January 28, 2019. We received two comments in response to the draft list, one from a private individual and one from an organization. Below, we discuss the comments we received and our responses to them.

Comment (1): We received one comment from the Western Energy Alliance, which requested that we include European starling (*Sturnus vulgaris*) and house sparrow (*Passer domesticus*) on the list of bird species not protected by the MBTA.

Response: The draft list of nonnative, human-introduced species was restricted to species belonging to biological families of migratory birds covered under any of the migratory bird treaties with Great Britain (for Canada), Mexico, Russia, or Japan. We excluded species not occurring in biological families included in the treaties from the draft list. For clarification purposes, following the list of species, we have added a list of biological families that do not qualify for protection under the MBTA and that have species known to occur in the United States or U.S. territories, whether human-introduced or by natural occurrence. This includes house sparrow (*Passer domesticus*), which occurs in the Passeridae family, and European starling (*Sturnus vulgaris*), which occurs in the Sturnidae family. As defined in the treaty with Japan, the only members of the Sturnidae family that qualify for protection under the MBTA are those included in that treaty’s annex that occur naturally in the United States or U.S. territories.

Comment (2): A private individual commented on the significance of birds to healthy ecosystems, to natural habitats, and to humans. The commenter also noted the decline of bird populations and that nonnative species can displace native bird species.

Response: The purpose of this updated list of bird species to which the MBTA does not apply is to reflect current taxonomy and distribution. This list itself does not reflect the Service’s obligation and efforts to conserve healthy bird populations.

What criteria did we use to identify bird species not protected by the MBTA?

The criteria remain the same as stated in our notice published on March 15, 2005, at 70 FR 12710.

Summary of updates to the 2005 list of bird species not protected by the MBTA

This notice presents a list of species that are not protected by the MBTA to reflect current taxonomy, to remove one species that no longer occurs in a protected family, and to remove two species as a result of new distributional records documenting their natural occurrence in the United States. We present the taxonomic updates in the list below. Japanese bush-warbler