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*Additional counsel and representation
 information listed in docket*

UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

NATIONAL URBAN LEAGUE, et al.,

Plaintiffs,

v.

WILBUR L. ROSS, JR., et al.,

Defendants.

CASE NO. 5:20-cv-05799-LHK

**DECLARATION OF AMIT MAKKER
 IN SUPPORT OF PLAINTIFFS'
 MOTION FOR TEMPORARY
 RESTRAINING ORDER**

Date: TBD
 Time: TBD
 Place: Courtroom 8
 Judge: Hon. Lucy H. Koh

1 I, Amit Makker, declare as follows:

2 1. I am an active member of the State Bar of California, a member in good standing
3 of the Bar of this Court, an associate at Latham & Watkins LLP, and counsel for a number of
4 Plaintiffs in the above-titled action. I make this declaration in support of Plaintiffs' Motion for
5 Temporary Restraining Order. I have personal, first-hand knowledge of the matters set forth
6 below and, if called as a witness, I could and would testify competently thereto.

7 2. Attached hereto as Exhibit A is a true and correct copy of an article, dated
8 September 1, 2020, by Hansi Lo Wang, *Census Door Knocking In Some Areas To End Even*
9 *Earlier Than Expected*, available at [https://www.npr.org/2020/09/01/908403286/census-door-](https://www.npr.org/2020/09/01/908403286/census-door-knocking-in-some-areas-to-end-even-earlier-than-expected)
10 [knocking-in-some-areas-to-end-even-earlier-than-expected](https://www.npr.org/2020/09/01/908403286/census-door-knocking-in-some-areas-to-end-even-earlier-than-expected).

11 3. Attached hereto as Exhibit B is a true and correct copy of an article, dated
12 September 1, 2020, by Mike Schneider, *San Diego, other cities ending census door-knocking*
13 *early*, available at <https://apnews.com/a2a443785b9a7a3b3d2275cf186429c4>.

14 4. Attached hereto as Exhibit C is a true and correct copy of a printout from
15 September 3, 2020 from the website at [https://2020census.gov/en/response-rates/nrfu-](https://2020census.gov/en/response-rates/nrfu-completion.html)
16 [completion.html](https://2020census.gov/en/response-rates/nrfu-completion.html). The website includes an interactive application showing "completion rates for
17 the Nonresponse Followup operation by Area Census Office."

18 5. Attached hereto as Exhibit D is a true and correct copy of an internal Census
19 Bureau document, dated August 3, 2020, available at
20 <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/Census%20Slide%20Deck%20Aug%203%202020.pdf>, released in connection with a letter from Carolyn B.
21 Maloney, Chairwoman of the House Committee on Oversight and Reform to Speaker Pelosi,
22 Minority Leader McCarthy, Majority Leader McConnell, and Minority Leader Schumer, dated
23 September 2, 2020. A press release regarding the letter that also links to the document is
24 available at [https://oversight.house.gov/news/press-releases/oversight-committee-releases-new-](https://oversight.house.gov/news/press-releases/oversight-committee-releases-new-internal-census-bureau-document-warning-of-risk)
25 [internal-census-bureau-document-warning-of-risk](https://oversight.house.gov/news/press-releases/oversight-committee-releases-new-internal-census-bureau-document-warning-of-risk).
26
27
28

1 I declare under penalty of perjury that the foregoing is true and correct.

2
3 Executed on: September 3, 2020

LATHAM & WATKINS LLP

4 By: /s/ Amit Makker

5 Amit Makker

6 Amit Makker (Bar No. 280747)

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9 *Attorney for Plaintiffs National Urban League;*
10 *League of Women Voters; Black Alliance for*
11 *Just Immigration; Harris County, Texas; King*
12 *County, Washington; City of San Jose,*
California; Rodney Ellis; Adrian Garcia; and
the NAACP

13 **ATTESTATION**

14 I, Melissa Arbus Sherry, am the ECF user whose user ID and password authorized the
15 filing of this document. Under Civil L.R. 5-1(i)(3), I attest that all signatories to this document
16 have concurred in this filing.

17
18 Dated: September 3, 2020

LATHAM & WATKINS LLP

19 By: /s/ Melissa Arbus Sherry

20 Melissa Arbus Sherry

EXHIBIT A



DONATE



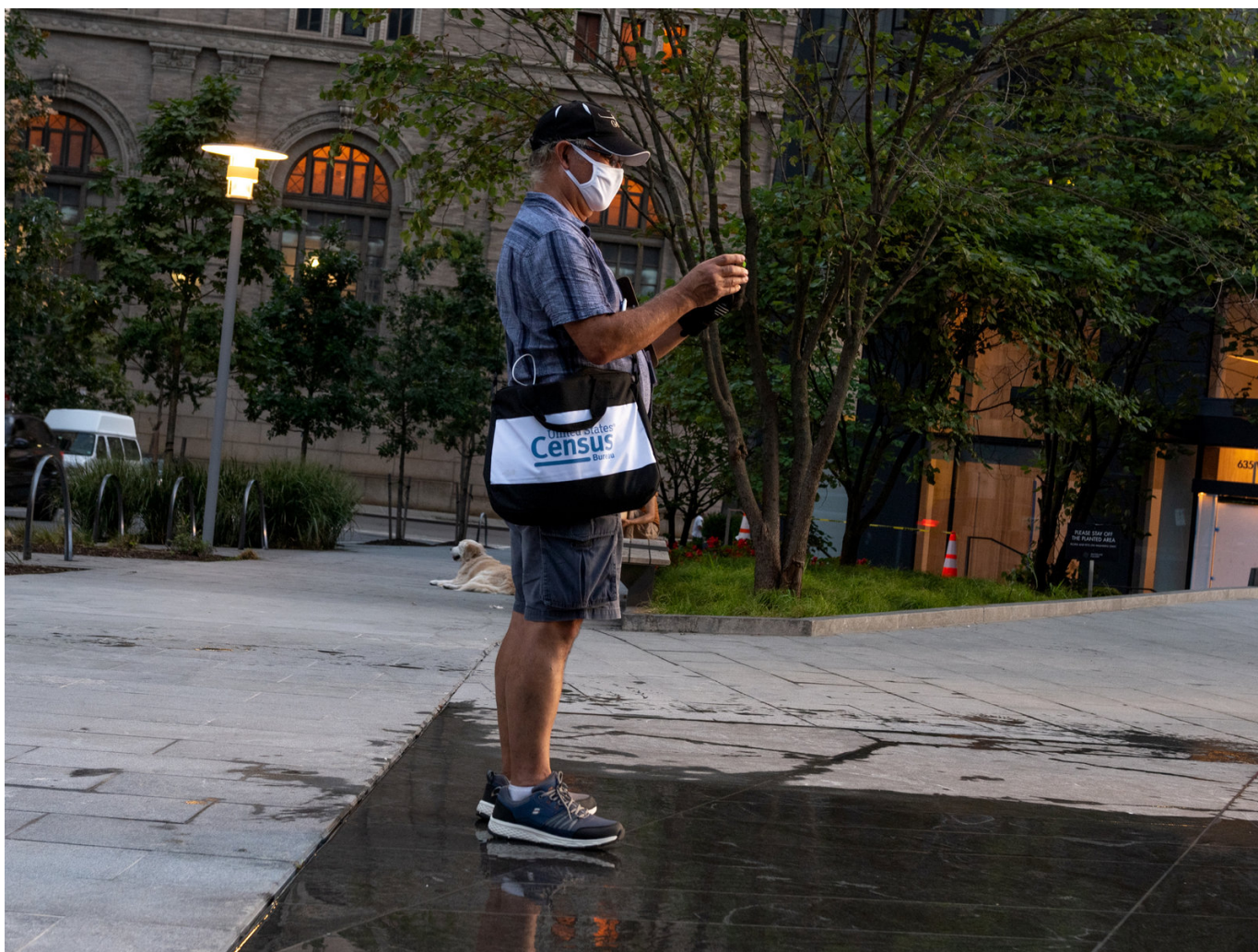
NATIONAL

Census Door Knocking In Some Areas To End Even Earlier Than Expected

September 1, 2020 · 7:23 PM ET



HANSI LO WANG



A Census Bureau worker with a face covering stands in a park in New York City in August. The bureau confirmed on Tuesday that door knocking is ending in some areas earlier than Sept. 30.

Alexi Rosenfeld/Getty Images

Updated at 10:18 a.m. ET Wednesday

Facing lawsuits and mounting scrutiny for making last-minute changes that cut 2020 census counting a month short, the U.S. Census Bureau is now ending in-person counting in the San Diego area and some other parts of the country as early as Sept. 18 — nearly two weeks before the expedited end date of Sept. 30 that NPR first confirmed.

"In some areas, nonresponse followup will finish earlier than September 30 - based on the rates of completion, self-response rates and the number of hours our available workforce can work," the bureau said in a statement to NPR.

The local census office for San Diego still has about a third of its door-knocking work to complete in just over two weeks, according to figures the bureau posted Tuesday on its website.

The bureau's public information office has not responded to NPR's questions about which areas besides San Diego, the country's eighth-largest city, are ending in-person counting of unresponsive households before Sept. 30.

Susan Brower, Minnesota's state demographer, told NPR that she was informed by the director of the bureau's Chicago regional office, which oversees census efforts for a lot of the Midwest, that door knocking in Hennepin County, home of Minneapolis, may be complete within the next two weeks.

In a statement to NPR after this story was first published, Tim Olson, the bureau's associate director for field operations, said the bureau is "constantly analyzing their workload and projecting how long it might take to complete the workload."

"When the percentage of households reaches a certain threshold, we actually assign the remaining cases to individual census takers who do everything they can to get a result with all the time they have left," Olson said. "We do not give up, even on the hardest of the hard to reach."

But the bureau's public information office has yet to respond to NPR's questions about what criteria the bureau is using to determine when its door knockers, also known as enumerators, are to be assigned the remaining uncounted households and when they have "finished" their work in an area.

"It's not unusual for the door-knocking operation to end before the scheduled end date for the entire operation. That happens in every census," said Terri Ann Lowenthal, a former staff director of the House oversight subcommittee for the census who now consults on issues related to the national head count. "However, I remain quite concerned about the completeness of the data collection during this phase because there has been so much displacement of people and households due to the pandemic."

Nationwide, households that have not yet participated in the constitutionally mandated head count of every person living in the U.S. can still self-respond online or over the phone through the end of this month, and the bureau has said it plans to process paper forms postmarked by then and received by Oct. 7.



NATIONAL

Census Door Knocking Cut A Month Short Amid Pressure To Finish Count

Still, these latest changes to door knocking — a critical census operation that helps ensure that people of color, immigrants and other historically undercounted groups are not missed — are likely to hinder public confidence further in the accuracy of the once-a-decade count.

Recent changes to the bureau's plans, coupled with wavering transparency from the agency, have sowed growing suspicions that the Trump administration is attempting to manipulate the numbers to benefit the Republican Party.

Already sandbagged by the coronavirus pandemic, the bureau has been under pressure from the administration to finish counting by Sept. 30. Commerce Secretary Wilbur Ross, who oversees the bureau, has directed it to prepare the first batch of census results to be delivered to the president by the end of this year as required by federal law.

The administration, however, had publicly supported giving the bureau more time because of delays caused by COVID-19. It made an about-face after President Trump issued a presidential memo in July that calls for unauthorized immigrants to be left out of the census numbers used for reapportioning congressional seats among the states despite the 14th Amendment's requirement to include the "whole number of persons in each state."



NATIONAL

Census Cuts All Counting Efforts Short By A Month

The earlier-than-expected wrap-up date for door knocking in the San Diego area was disclosed last month during a public meeting organized by the San Diego Association of Governments.

"This operation in San Diego is scheduled to end Sept. 18," said Roberto Garcia, a Census Bureau partnership specialist for the San Diego region, during the virtual meeting on Aug. 19. "So by Sept. 18, we hope that all of our workload will be complete, and there will not be any more enumerators out on the street."

Garcia's comments were cited Tuesday in a court filing, which references NPR's reporting, by attorneys with the Mexican American Legal Defense and Education Fund and Asian Americans Advancing Justice - AAJC, who are leading a federal lawsuit in Maryland that's trying to force the Census Bureau to return to the extended schedule the bureau developed in response to the pandemic.

The National Urban League is leading a similar federal lawsuit in California, while census advocates wait to see whether Congress will move forward with legislation put forth by House and Senate Democrats that would extend legal deadlines for reporting census results and could give the bureau more time to count and review its results for errors.



NATIONAL

'Not Enough Time': Census Workers Fear Rushing Count Could Botch Results

Lowenthal, the census consultant, says she is concerned that the local census office for San Diego has less than 64% of its door-knocking work complete, according to figures the bureau released Tuesday.

"This gives me pause as to why the Census Bureau believes it can enumerate the remaining households accurately in less time than it has allowed," said Lowenthal, the census consultant. "I think it is premature to set an artificial early end date for the

operation in San Diego, which could suggest to enumerators that they need to move through their caseloads more quickly than they otherwise would."

That, Lowenthal warned, increases the risk of collecting inaccurate or incomplete information about uncounted households that may require more convincing to overcome their distrust of the government.

"It seems to me that this operation should take more time, not less, than in the previous censuses," Lowenthal added.

2020 census san diego census bureau

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'Do I Really Need This Much Office Space?' Pandemic Emptied Buildings, But How Long?

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San Diego, other cities ending census door-knocking early

By MIKE SCHNEIDER September 1, 2020 GMT

ORLANDO, Fla. (AP) — Already under criticism for plans to end the 2020 census at the end of September, a month earlier than previously scheduled, the U.S. Census Bureau expects to finish up its most labor-intensive operation for getting an accurate head count even earlier in one of the largest U.S. cities.

AP NEWS

Door-knocking operations for the 2020 census are expected to end in the San Diego area on Sept. 18 instead of the end of the month, for census takers, also known as enumerators, who visit homes that haven't yet responded to the questionnaire, according to a Census Bureau official.

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"We hope all of our workload will be complete and there will not be any more enumerators out on the street," Roberto Garcia, a partnership specialist in San Diego, said almost two weeks ago during an online meeting with metro San Diego leaders who are helping motivate residents to answer the census questionnaire.

Garcia said people who haven't yet responded to the census questionnaire after the door-knocking stops will still be able to do so online, by mail or by telephone.

Census Bureau spokesman Michael Cook said that there are some places in the U.S. that will finish with the door-knocking phase earlier than the Sept. 30 deadline because they have completed the needed work.

Cook didn't say which other areas may wrap up before the end-of-September deadline.

Between the time these areas finish with door-knocking and the Sept. 30 deadline for ending the head count, "they are going to take a fine tooth comb and make sure nothing is missed," Cook said.

A coalition of cities, states and civil rights groups are suing the Census Bureau to stop the statistical agency from ending the head count at the end of September. The 2020 census will be used to determine how \$1.5 trillion in federal spending is distributed and how many congressional seats each states gets in a process known as apportionment.

Because of the pandemic, the Census Bureau revised its deadlines so that the 2020 census would finish at the end of October. But the bureau shortened that deadline to

AP NEWS

the end of September last month. That came after it became clear the Republican-controlled Senate wouldn't take up legislation passed by the Democratic-controlled House that would extend the Census Bureau's deadlines for turning over apportionment and redistricting data.

The Senate inaction coincided with President Donald Trump directing the agency to exclude people in the country illegally from figures used for redrawing congressional districts, according to a lawsuit filed in San Jose seeking to stop the count from ending in September.

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More than a half-dozen other lawsuits are challenging Trump's order, which civil rights groups say is unconstitutional and an attempt to limit the power of Latinos and immigrants of color.

A third of San Diego County's 3.3 million residents are Hispanic, according to Census Bureau figures.

Households that require door knockers to gather census answers typically are among the hardest to count in a census.

"Any additional truncation of Census household data collection, especially if concentrated in particular geographies, is beyond irresponsible," said Thomas Saenz, president and general counsel of the Mexican American Legal Defense and Educational Fund. "Any whiff of possible political targeting — suspicions obviously triggered by the Trump administration's troubling pattern in other areas — severely undermines confidence in Census 2020."

Saenz's organization and other civil rights groups on Tuesday asked a federal judge in Maryland for a temporary restraining order that would stop the Census Bureau from ending the count early and let it continue through the end of October. The request also asked that the deadline for turning in apportionment data be pushed back from the end of the year to the end of next April.

The request says Hispanics, Asian Americans, Blacks and immigrants are at risk of being undercounted if the census ends early.

AP NEWS

The door knockers “are essential for counting households that do not self-respond to the census questionnaire, a greater proportion of which tend to be minority households,” said the motion for the temporary restraining order.

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AP NEWS

EXHIBIT C

Operational and Processing Options to Meet Statutory Date of December 31, 2020 for Apportionment

August 3, 2020

Pre-decisional - Internal Use Only - Not for Public Distribution

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Census
2020

Bottom Line Up Front

Objective: We have developed this plan in response to your request to provide an apportionment count by the statutory deadline of December 31, 2020.

- **Maximizing** staff and production hours for field data collection operations to conclude field data collection by September 30, 2020.
- **Compressing** and streamline backend processing to deliver apportionment counts by December 31, 2020.
- **Achieving** an acceptable level of accuracy and completeness, with a goal of resolving at least 99% of Housing Units in every state.

Nonresponse Followup Operational Options

Early Start of Nonresponse Followup Operations

6 Cycle 1a Area Census Offices (ACOs) began operations on July 16

6 Cycle 1b ACOs began operations on July 23

35 Cycle 2 ACOs were scheduled to begin operations on July 30; however, we started operations earlier in some ACOs where staff was available:

- 17 ACOs – Started July 26 – 29
- 18 ACOs – Started July 30

39 Cycle 3 ACOs were scheduled to begin operations by August 3:

- 15 ACOs – Started last week, July 31
- 24 ACOs – Started today, August 3

All remaining ACOs were scheduled to begin August 11, but will begin operations by August 9:

- 53 ACOs – Will start August 3 – 7
- 109 ACOs (all remaining) – August 9
- These ACOs will have to deploy staff regardless of the COVID-19 risk in those areas to open on these dates.

Increased Replacement Training for Enumerators

Replacement Training Options

Potential Efficiency Gain / Applicable Costs to Implement

Inviting More People to Training

Over selection rates will address higher-than-expected no-show rates of 35%, bringing us closer to our target initial staffing levels.

Continual Replacement Training

Expect to conduct replacement training for at least 135K Enumerators due to attrition. Just over 11,000 training additional sessions:
\$90m total training cost

Production Staff Awards for Increased Work Hours

Award Options Covers Weeks of August 9, August 16, August 23	Potential Efficiency Gain / Applicable Costs to Implement
Implement Awards to recognize increased work hours: <ul style="list-style-type: none"> • \$50 for exceeding 15 hours/week • \$50 for exceeding 25 hours/week (\$100 total) <ul style="list-style-type: none"> ○ Must complete 0.75 cases/hour 	Expect 340,000 to qualify: <ul style="list-style-type: none"> • \$30m/week • Increases capacity by 1.5 million work hours per week, or 80,000 more "19 hour" enumerators per week
Implement Award for working multiple 25 hour weeks: <ul style="list-style-type: none"> • \$500 for completing 3 weeks of production 	Expect 150,000 to qualify: <ul style="list-style-type: none"> • \$75m total cost • Lower operational impact as a result of reduced replacement training
Implement CFS Award for working multiple weeks: <ul style="list-style-type: none"> • \$750 for completing 3 weeks of production • Would recognize those who work at least 32 hours per week 	Expect 15,000 CFSs to qualify: <ul style="list-style-type: none"> • \$11.5m total cost per week • Increased data quality due to more effective alert resolution • Improved operational support with experienced supervisor

Outreach Methods to Expand Reach to Underperforming Areas

Options

Potential Efficiency Gain / Applicable Costs to Implement

Expand the use of NRFU Travel Teams:

- Moving teams that have successfully completed their areas to areas requiring additional attention

Using experienced staff minimizes the need to train new staff – particularly in areas where new staff are not available.

Implement outbound phone calling to conduct interviews:

- Use telephone numbers from ERD Contact Frame
- Used by enumerators in ACOs that are finishing up to help out in other ACOs

Enables enumeration in high COVID-19 risk areas and provides additional data collection capability.

Adjustments to NRFU Contact Strategy

NRFU Adjustment Options	Potential Efficiency Gain / Applicable Costs to Implement
Close out self-reported vacants that are also Administrative Record (AdRec) vacant	Reduce workload by 140k cases
Reduce contact attempts for self-reported vacants from 6 to 1, if HU is confirmed vacant	Increase enumerator productivity
Reduce contact attempts for Re-Interview (RI) and Self-Response Quality Assurance (SRQA) cases from 6 to 3	Reduce attempts from 6 to 3 for 1.9 million cases, increase enumerator productivity
Eliminate Random RI, and depend on analytic sampling	Reduce NRFU workload by 800k cases – potential reduction in quality of enumerator work
Make “pop count only” sufficient earlier in the operation	Still being researched, TBD

Implement Additional Administrative Record Options

Administrative Records Options	Potential Efficiency Gain / Applicable Costs to Implement
We are in consultation to revise our AdRec strategy to use IRS-only (no corroborating sources) for "pop count only" cases	Reduce attempts from 6 to 1 for estimated 3.8 million cases, contingent on IRS approval, increasing enumerator productivity
Close out cases with conflicting AdRec showing both vacant and delete	Reduce attempts from 6 to 1 for 1.9 million cases, increasing enumerator productivity

Overview of Backend Processing

Assumptions:

1. Highly compressed schedule for 2020 Census data processing and review of data products.
2. Post-processing must start by October 1, 2020.
3. Post-processing work activities are limited to those required to produce apportionment counts. Delivery of redistricting data products will be negatively impacted under this revised plan and we are determining full impacts.
4. All of these activities represent abbreviated processes or eliminated activities that will reduce accuracy.

Compressing Backend Processing

Adjusted Activity

Finalize Master Address File (MAF) updates from remaining field operations by 9/4/20

Address updates from continued field work after 9/4/20 will not be applied to the MAF

Eliminate the step that includes Decennial Statistical Studies Division (DSSD) review of the MAF extract

Lock Geographic processing on 9/25/20 and deliver the final 2020 Census address universe by 10/14/20

Cancel Count Review Event 2, eliminating the need for late Group Quarters Enumeration (GQE) operations

Impact and Risks

We do not anticipate that the resulting number of updates not included will be highly significant. However, increases risk of inaccuracy.

Risk of missing and therefore propagating errors, however the MAF is the most accurate ever.

Reduces a 35 day processing duration to 19 days.

State demographer review of GQ data will be cancelled. The Demographic and Decennial staffs will work together to develop the message and communicate it to the Federal State Cooperative for Population Estimates (FSCPE)/states. The risk is virtually certain vocal objections from the FSCPE State Demographers and the State Governors they serve.

Compressing Backend Processing - Continued

Adjusted Activity	Impact and Risks
<p>Create a separate processing stream for the Enumeration of Transitory Locations (ETL) and Service Based Enumeration (SBE) operations that follows the Federally Affiliated Count Overseas (FACO) processing approach. This will enable adding ETL and SBE population counts state-by-state significantly later in the Census Unedited File (CUF) production process.</p>	<p>This file needs to be delivered to POP by the time the CUF – the basis for the apportionment delivery – review is scheduled to be complete, by December 18. Additionally, ETL permits the reporting of a Usual Home Elsewhere (UHE), which will not be able to be processed with this new approach.</p> <p>The CUF will have to be re-run prior to the processing of the Census Edited File (CEF) in order to add in the SBE/ETL population for the Public Law 94-171 Redistricting file. The Apportionment Team will need to change its processing plans and conduct testing to ensure the proper integration of ETL/SBE state counts.</p>
<p>Compress POP division and DSSD review and processing times</p>	<p>A compressed review period creates risk for serious errors not being discovered in the data – thereby significantly decreasing data quality. Additionally, serious errors discovered in the data may not be fixed – due to lack of time to research and understand the root cause or to re-run and re-review one or multiple state files.</p>
<p>Compress time for creating/verifying apportionment data and preparation of transmittal package for DOC</p>	<p>A compressed review period creates risk for errors being present in the data.</p>

Implementation of the Presidential Memo

A team has been established and is tasked with deriving a process utilizing sound statistical methods and meeting tests of operational feasibility, to achieve the goals of directives from Secretary Ross regarding implementation of the Presidential Memo. To achieve this, the Census will:

- Build upon the work we have already done based on Executive Order 13880, "Collecting Information about Citizenship Status in Connection with the Decennial Census".
- Use all administrative records to the extent they are available. Using these records, in combination with other data already obtained regarding citizenship status, we will further refine the non-citizen category.
- Incorporating this work into the schedule to meet the current legal mandates.

Announcing the Replanned Operational Schedule

- **Announce:** Statement from Director Dillingham issued by Monday afternoon or as approval given with new schedule and re-plan outline.
- **Update Webpage:** We will update central schedule webpage with new dates. (current page reflects re-planning status)
- **Rollout:** We will follow a controlled rollout to give appropriate embargoed heads up to key Congressional offices, and then post and distribute the updated materials to Census Bureau staff, partners, intergovernmental stakeholders, and the media.

Questions?

EXHIBIT D

Nonresponse Followup Completion Rates

The 2020 Census will conclude data collection operations on September 30, 2020. Keep track of progress for the Nonresponse Followup operation in your local Area Census Office by using this map.

Nonresponse Followup is the final 2020 Census data collection operation to count households that have not already responded online, by phone, or by returning their completed questionnaire. The map below shows the completion rates for the Nonresponse Followup operation by Area Census Office.

This graphic will be posted daily by 3:00 p.m. EST. Updates will be provided starting on September 1 through October 6.

Interact with the live application below, or [open it in a separate window](#) -.

EXPAND ALL**COLLAPSE ALL**

-
- ☐ How should I interpret the percentage provided?
 -
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 -
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 -
 - ☐ How often will you publish this graphic?
 -
 - ☐ How does the percentage completion in this graphic differ from the percentage in the self-response rate map?
 -
 - ☐ Where can I find a comparable table for the 2010 Census?
 -
 - ☐ What is included in the denominator?
 -
 - ☐ How does the U.S. Census Bureau use these data?
 -
 - ☐ What is an Area Census Office?
 -

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Total Response Rates by State

Check out how many households in your state have been counted by census takers, as well as total response rates from across the country.


Self-Response Rates

Explore how many households in your community have responded online, by phone, or by mail.

2020 Census: Nonresponse Followup Operation (NRFU) Workload Completion by Area Census Office (ACO)

The 2020 Census will conclude data collection operations on September 30, 2020. Keep track of progress for the Nonresponse Followup Operation (NRFU) in your local Area Census Office (ACO) by using this map. NRFU is the final 2020 Census data collection operation to count households that have not already responded online, by phone, or by returning their completed paper questionnaire.

You can click on an ACO to see its percentage of NRFU workload completed.

Click on  in the upper right of the application to learn more.

Do not show this splash screen again.

OK

Note: A limited number of areas were part of the NRFU “soft launch” beginning July 16 and could have higher progress rates due to more time in the field.

Workload completion data are available for download via [CSV \(https://www2.census.gov/geo/maps/DC2020/ACO20/\)](https://www2.census.gov/geo/maps/DC2020/ACO20/).

Frequently Asked Questions

2020 Census: Nonresponse Followup Operation (NRFU) Workload Completion by ACO

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Legend

Geographic Areas

Geographic Areas

State (or state equivalent)

Percentage of NRFU Workload Complete by Area Census Office (ACO)

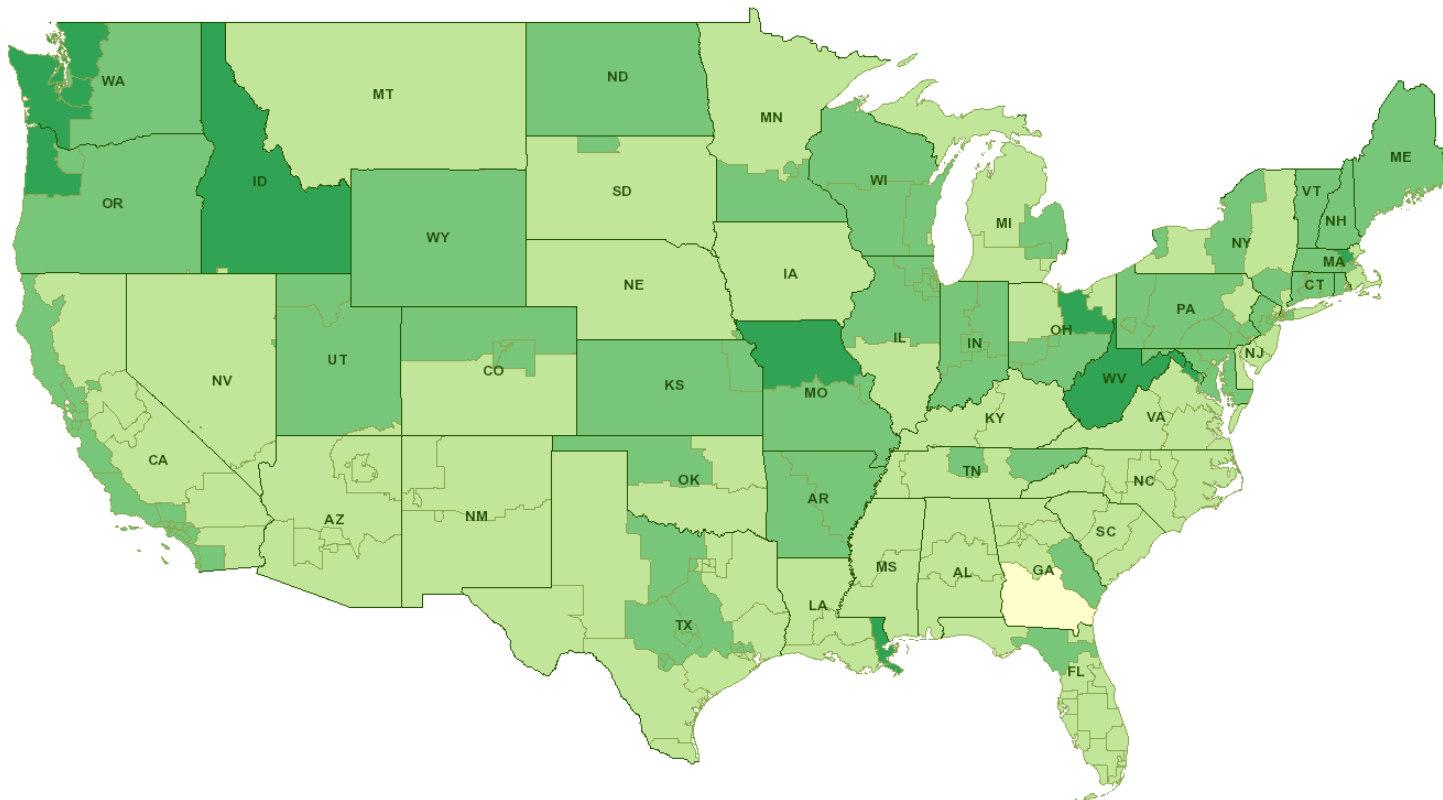
Complete

85.0 to 99.9

60.0 to 84.9

30.0 to 59.9

0.0 to 29.9



300mi
-68.533 59.110 Degrees

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