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February 18, 2021

RE: Response Letter for FOIA Request 21-038

This letter is the final response to your Freedom of Information Act (“FOIA”) request received by mail on January 11, 2021. Your request was assigned **FOIA Number 21-038**. Please reference this number in all correspondence concerning your request. You requested:

“The DFC CEO said in recent remarks before the Board of Directors (on September 9, 2020):

‘And, following a public comment period that showed strong support, we’ve modernized our policies to allow for investment in nuclear energy projects.’

I request a copy of the policies described above.”

Your request was processed pursuant to Section 552 of Title 5 of the United States Code, commonly known as the Freedom of Information Act (“FOIA”). Pursuant to the FOIA, DFC is releasing in full one record totaling 46 pages. Please note this policy is also publicly available on DFC’s website at: https://www.dfc.gov/sites/default/files/media/documents/DFC_ESPP_07312020-final_1.pdf. The FOIA requires agencies to search records within the agency’s control that are reasonably likely to produce your requested records.¹ Please open this letter in Adobe Reader or Acrobat Professional on a computer to ensure you can see the released records which are attached directly to this letter.

For fee purposes, this request was previously categorized as “all other requesters.” The first two hours of search time was provided at the agency’s expense. Fees for your request total less than \$25.00 for this request and are therefore not charged. Accordingly, no fees are due for the processing of this request.

This is a final agency response. You may contact me or the FOIA Public Liaison for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of

¹ See, e.g., Weisberg v. DOJ, 705 F.2d 1344, 1351 (D.C. Cir. 1983).

Government Information Services (OGIS) at the National Archives and Records Administration to inquire about FOIA dispute resolution services they offer. The contact information for OGIS is as follows:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, MD 20740-6001
Email: ogis@nara.gov
Phone: 202-741-5770 | Toll Free: 877-684-6448 | Fax: 202-741-5769

If you are not satisfied with DFC's response to this request, you may administratively appeal by addressing a written appeal to the following:

Deputy General Counsel
United States International Development Finance Corporation
1100 New York Ave., N.W.—12th Floor
Washington, D.C. 20527

Your appeal must be postmarked or electronically transmitted **within 90 days** of the date of this response to your request. Both the envelope and the letter should be marked "FREEDOM OF INFORMATION ACT APPEAL." The appeal should clearly identify the agency determination that is being appealed and include the request number. If you are not satisfied with the results of any such appeal, judicial review is available to you in the United States District Court for the judicial districts in which you reside or have your principal place of business, or in the District of Columbia.

Sincerely,

Eric Styles
Digitally signed by Eric
Styles
Date: 2021.02.18
11:21:25 -05'00'

Eric Styles
Administrative Counsel
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ENVIRONMENTAL AND SOCIAL POLICY AND PROCEDURES



July 2020



U.S. International
Development
Finance Corporation

[dfc.gov](https://www.dfc.gov)

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1. INTRODUCTION

DFC Introduction

- 1.0** The U.S. International Development Finance Corporation (DFC), U.S. International Development Finance Corporation (DFC) is America's development bank. DFC partners with the private sector to finance solutions to the most critical challenges facing the developing world today. We invest across sectors including energy, healthcare, critical infrastructure, and technology projects. DFC also provides financing for small businesses and women entrepreneurs in order to create jobs in emerging markets. DFC investments adhere to high standards and respect the environment, human rights, and worker rights.

Statement of Purpose and Scope

- 1.1** This Environmental and Social Policies and Procedures ("ESPP") addresses DFC's commitments regarding the environmental and social dimensions of sustainable development and provides **Applicants** notice of the general environmental and social requirements that are applied in evaluating prospective projects and monitoring on-going supported projects. These environmental and social requirements apply to all projects supported through insurance, reinsurance, direct loans, or investment guaranties.

DFC Commitment

- 1.2** It is the policy of the DFC to facilitate market-based private sector development and inclusive economic growth in less developed countries through the provision of credit, capital, and other financial support—
- to mobilize private capital in support of sustainable, broad-based economic growth, poverty reduction, and development through demand-driven partnerships with the private sector that further the foreign policy interests of the United States;
 - to finance development that builds and strengthens civic institutions, promotes competition, and provides for public accountability and transparency;
 - to help private sector actors overcome identifiable market gaps and inefficiencies without distorting markets;
 - to achieve clearly defined economic and social development outcomes;
 - to coordinate with institutions with purposes similar to the purposes of the Corporation to leverage resources of those institutions to produce the greatest impact;
 - to provide countries a robust alternative to state directed investments by authoritarian governments and United States strategic competitors using best practices with respect to transparency and environmental and social safeguards, which take into account the debt sustainability of partner countries;
 - to leverage private sector capabilities and innovative development tools to help countries transition from recipients of bilateral development assistance toward increased self-reliance; and

- to complement and be guided by overall United States foreign policy, development, and national security objectives, taking into account the priorities and needs of countries receiving support.

1.3 This ESPP outlines how the DFC will put into practice its commitment to the development goals through its environmental and social review and monitoring processes. Specifically, the DFC will ensure through its processes that projects receiving support:

- Are environmentally and socially sustainable.
- Are compatible with low and no-carbon economic development.
- Avoid prejudice and discrimination and respect **Human Rights**, including the rights of **Workers** and the rights of **Project Affected People**.
- Avoid adverse impacts and, if such impacts are unavoidable, properly mitigate or compensate for the impacts.
- Undertake **Meaningful Consultation** with **Project Affected People** regarding project activities.
- Are undertaken in countries that are taking steps to adopt and implement laws that extend **Internationally Recognized Worker Rights**.

1.4 DFC will implement best practices in environmental management and reporting in accordance with the provisions of Executive Order 13834– Efficient Federal Operations (May 17, 2018).

Source of Policy

1.5 This ESPP implements applicable environmental and social requirements and procedures contained in U.S. law and, the **International Finance Corporation's ("IFC,")** **Performance Standards on Social and Environmental Sustainability ("Performance Standards,")** and **Industry Sector Guidelines**. Any subsequent revisions to those standards are incorporated into this ESPP by reference.

2. SCREENING AND CATEGORIZATION

2.0 Objectives: (1) to define the **Area of Influence** of the **Project** for the purposes of environmental and social review as well as public consultation; (2) to identify the nature and magnitude of environmental and social risks and impacts, including those project impacts that could preclude support; (3) to identify issues to be investigated in detail in the environmental and social review process; and (4) to determine requirements for documentation, consultation, disclosure, notification and third party audits.

2.1 Scope of Application: The requirements contained within this section apply to all projects supported through DFC insurance, reinsurance, direct loans, or investment guaranties.

DFC Roles and Responsibilities

2.2 Applications are screened to identify as early as possible the risk of adverse environmental and social impacts of proposed projects and to identify project impacts that could preclude support because a project is a **Categorically Prohibited Project**.

2.3 Projects listed in Appendix B **Categorically Prohibited Projects** will not be supported.

2.4 The DFC reviews the risks and impacts identified by the **Applicant**, the **Applicant's** defined **Area of Influence**, and information on **Project Affected People** to determine whether the information is adequate, accurate, objective and appropriate to the size and nature of project activities. Additional information may be required from the **Applicant** and from knowledgeable third parties.

2.5 Projects are categorized based on a preliminary assessment of (1) the potential environmental and social risks and impacts within a project's **Area of Influence** in the absence of any required mitigation, (2) the **Applicant's** commitment and capacity to effectively manage the environmental and social risks and impacts, including the ability to implement any required mitigation and (3) the potential role of third parties in achievement of successful outcomes. Below are aspects of projects that may lead to a categorization of heightened environmental or social risk (i.e., Category A or Special Consideration).

- Projects considered high risk are those that discharge high levels of contaminants (including **Greenhouse Gases**) into the environment in the absence of adequate pollution controls, as well as those projects that are considered high risk due to the absence of sound environmental and social management. Examples of these categories of projects are provided in Appendix A.
- Large-scale projects are generally considered to represent a high risk because of the greater potential to impact large geographic areas outside of a project boundary or a large number of people living in nearby communities. Although quantitative screening thresholds that define what is meant by "large-scale" are not available for all projects, several examples are provided in Appendix
- Projects that could result in the significant diminishment of priority ecosystem

services or social values at a particular site are considered high risk. Ecosystem services are benefits that people obtain from ecosystems including food, freshwater, shelter, timber, surface water purification, carbon storage and sequestration, climate regulation, and protection from natural hazards.

Examples of social values include site attributes important for ethnic or religious reasons or attributes of cultural or historic significance. Examples of ecologically or socially sensitive locations are provided in Appendix A.

- Projects that are in locations, industries, or sectors with historical issues related to adverse impacts on **Project Affected People** are considered high risk. Other circumstances that may be considered high risk include projects with demonstrated local opposition, environments of fragile security or history of security personnel abuses, legacy of gender or ethnic discrimination/violence, or country contexts where national **Human Rights** laws do not meet international standards.
- Projects that are in locations, industries, or sectors with a documented history of **Labor Rights** issues are considered high risk. Examples of such high-risk projects may involve significant construction activities, manual harvesting of agricultural commodities, **Extractive Industries**, and industries which may present circumstances that make it difficult for **Workers** to exercise trade union rights, or have a higher likelihood of using forced (including trafficked) or child labor.

2.6 All projects and **Subprojects** are **categorized** as Category A, B, C or D based on environmental and social factors. An additional classification of **Special Consideration** may apply to projects that have heightened potential for adverse project-related social risks related to the involvement of or impact on **Project Affected People** including **Workers**.

- Category A projects may have significant adverse environmental and/or social impacts that are irreversible, sensitive, diverse, or unprecedented in the absence of adequate mitigation measures. Category A projects are considered high risk. Appendix A provides an illustrative list of sensitive sectors and project siting factors that may lead to a Category A categorization.
- Category B projects are likely to have limited adverse environmental and/or social impacts that are few in number, generally site-specific, largely reversible and readily addressed through mitigation measures. Category B projects are considered medium risk. For these reasons, the scope of environmental and social assessment for Category B projects is narrower than that required for Category A projects. Examples of Category B projects may include small to medium scale housing developments in urban areas, restaurants, and light manufacturing.
- Category C projects are likely to have minimal adverse environmental or social impacts. Examples of Category C projects may include financial services, telecommunications projects not involving new physical infrastructure, bid bonds and data processing.
- Category D is reserved for initial approval of guaranties to **Financial Intermediaries**, which will make investments in or provide financing to projects or enterprises ("**Subprojects**,") engaged in activities within Categories A, B or C. **Subprojects**, originated by the **Financial Intermediaries** screened as Category D, are subsequently screened and subjected to the full scope of environmental and

social assessment process including public disclosure and consultation, **Greenhouse Gas** emission accounting, and conditions and monitoring requirements as warranted by the nature and scope of the **Subproject** and its environmental and social risks and impacts. See **Financial Intermediaries** Paragraphs 3.28 to 3.33.

- **Special Consideration** projects potentially have heightened adverse project-related social risks associated with the involvement of or impact on **Project Affected People** including **Workers**. Projects may be classified as **Special Consideration** based on an assessment of the severity of possible social risks, and their relevance to a project. Key risk factors that are taken into consideration may include:
 - Industry or sector: labor-intensive industries or sectors that are statistically more likely to infringe upon **Labor Rights**.
 - Regional vulnerabilities: projects in countries (i) with a documented history of **Labor Rights** issues, (ii) having recently experienced conflict associated with **Project Affected People**, or (iii) with weak or compromised regulatory systems.
 - Presence of vulnerable groups: (i) utilization or reliance to a large degree on large pools of sub-contracted, unskilled, temporary, and/or migrant **Workers**, including within the supply chain; (ii) project risks or impacts that fall disproportionately on **Project Affected People** who, because of their particular circumstances, may be disadvantaged or vulnerable, or (iii) sectors in which there is a high risk for the use of forced labor or child labor.
 - Significant adverse impacts: (i) projects anticipated to have adverse impacts on a significant number of **Workers**, or (ii) projects that by their nature or footprint could cause or be anticipated to cause (or be complicit in) significant adverse Human Rights impacts.

2.7 In categorizing projects, direct, indirect, induced, supply-chain related, regional, trans-boundary and cumulative environmental and social impacts are considered. Risks are assessed at key stages in the project life cycle including pre-construction, construction, operations, decommissioning and closure.

2.8 In categorizing investments in existing projects, including privatizations, environmental and social impacts and risks associated with (1) current operations and (2) any risks and impacts from planned expansions or modifications are assessed.

Applicant Roles and Responsibilities

2.9 Applicants must meet the requirements of the **Performance Standards**. Included within this requirement are the risk and impact identification requirements of **Performance Standard 1**, which requires (1) Identification of all relevant environmental and social risks of the **Project** including issues identified in **Performance Standards 2** through **8**; (2) Identification of all factors that define the **Project's Area of Influence**; and (3) Identification of groups and communities that may be directly or indirectly affected by the **Project** (i.e., **Project Affected People**), including groups and communities that may be differentially or disproportionately affected by the project because of their disadvantaged or vulnerable status. The process of identifying risks, impacts, **Area of Influence** and

Project Affected People shall be adequate, accurate, objective and appropriate to the severity of **Project** risks and significance of **Project** impacts.

2.10 Consistent with the requirements of **Performance Standard 1**, **Applicants** are required to provide an overarching policy statement of the environmental and social objectives and principles that will be used to guide the **Project** and achieve sound and sustainable environmental and social performance. The policy statement should identify the individual who will be responsible for execution of the policy statement and the means of communicating the policy statement within the **Applicant's** organization. The policy statement shall be appropriate to the size and nature of the **Applicant's** organization.

2.11 Consistent with the requirements of **Performance Standard 1**, **Applicants** are required to identify whether the environmentally and socially sound and sustainable outcome of the **Project** is dependent on the performance of a third party. A third party may be a government agency (e.g., acting as a regulator or implementer of a relocation or compensation program), a contractor or subcontractor, or a supplier.

3. ENVIRONMENTAL AND SOCIAL REVIEW

3.0 Objectives: (1) to determine whether projects seeking support can be implemented in accordance with this ESPP and the **Performance Standards**; (2) to identify opportunities to avoid adverse impacts and, if impacts are unavoidable, to identify required mitigation and compensation; (3) to identify opportunities to improve environmental and social performance of projects seeking support; and (4) to establish specific performance requirements for certain project sectors.

3.1 Scope of Application: The requirements contained within Paragraphs 3.2 – 3.15 of this section apply to all projects supported through insurance, reinsurance, direct loans, or investment guaranties. The requirements in Paragraphs 3.16 – 3.33 of this section only apply to those projects in the relevant project sector.

DFC Roles and Responsibilities

3.2 A review of an **Applicant's Environmental and Social Management System** ("ESMS," See Glossary) is performed to determine whether the **ESMS** meets the requirements of Performance Standard 1 and whether environmental, health, safety and social aspects of a project can be effectively managed by an **Applicant**. The review will consider direct, indirect, induced, supply-chain related, regional, trans-boundary and cumulative environmental and social risks and impacts.

3.3 DFC reviews the **Applicant's** evidence of **Meaningful Consultation** with **Project Affected People** within the defined **Area of Influence**.

3.4 The identified set of policies and objectives for environmental and social performance must be adequate to address identified environmental and social risks and impacts and are appropriate to the size and nature of the project activity. As necessary, supplemental actions that are required to meet the **Performance Standards** will be identified to avoid adverse impacts or enhance environmental and social performance. DFC will incorporate the **Performance Standards** that the project is required to meet, including project specific conditions and actions, in **DFC Agreements**.

3.5 For consistency across U.S. Government agencies, DFC relies on guidance provided by the **U.S. Department of State**, the lead U.S. agency on **Human Rights** matters and determinations.

3.6 Support for a project will be declined when (1) a project is a **Categorically Prohibited Project**; (2) a project fails to address environmental and social issues in a satisfactory manner and cannot be expected to meet the requirements of the **Performance Standards** over a time frame considered reasonable and feasible; (3) residual impacts after mitigation are unacceptable; (4) a project does not comply with the host country's environmental and social laws or regulations; or (5) a project does not respect Human rights including **Labor Rights**.

Applicant Roles and Responsibilities

3.7 Applicants must meet the requirements of the **Performance Standards**. **Applicants** are required to establish an **ESMS** that meets the requirements in **Performance Standard**

1. The level of detail and complexity of the **ESMS** should be risk-based, extend across a project's **Area of Influence**, and be commensurate with the significance of potential impacts or the severity of the risks of the project. Key areas of an **ESMS** are human resources management, environmental management, occupational health and safety management and effective management of community impacts and relations, including mechanisms and frequency for reporting to **Project Affected People** on project performance. An acceptable framework for an **ESMS** is one that provides for the effective management of the environmental and social risks and impacts associated with a project, including risks related to **Labor Rights** and **Human Rights** (See Paragraph 3.15).

3.8 Applicants are required to undertake **Meaningful Consultation** with **Project Affected People** within the defined **Area of Influence**. For all projects **Applicants** are required to meet the requirements related to **Stakeholder** engagement, **Stakeholder** analysis and engagement planning, access to information, consultation, reporting to **Stakeholders** and the establishment of a grievance mechanism. The form and scope of the consultation should be commensurate with the project risks and the nature and scope of the project.

3.9 The requirement to establish an **ESMS** extends to **Subprojects** undertaken by supported **Financial Intermediaries**. **Financial Intermediaries** shall have a mechanism in place to assess the environmental and social impact of their DFC supported investments and operations and take action to ensure compliance of subprojects with DFC policies.

3.10 Environmental and social impact assessment is the process used to identify potential environmental and social impacts and risks associated with the **Project**. The assessment process also identifies any mitigation, in accordance with a **Mitigation Hierarchy**, or corrective measures that will enable the **Project** to meet the applicable requirements in **Performance Standards** 2 through 8, any applicable host country laws and regulations, and DFC requirements. **Applicants** seeking support for Category A and B projects, and **Special Consideration** projects, must conduct some form of environmental and social assessment. Depending on the type of project and the nature and magnitude of the risks and impacts, the assessment could involve an **Environmental and Social Impact Assessment** ("ESIA," See Glossary), a limited or focused environmental and social review, or a straightforward application of environmental siting, pollution standards, design criteria or construction standards. The types of issues, risks to be examined, impacts to be assessed and **Meaningful Consultation** to be undertaken can also vary considerably, depending on the nature of the **Project** and its size, location, stage of development, severity of risks and impacts, geographical extent of impact and ability to mitigate. For those projects with heightened social risks (See Paragraph 2.6, **Special Consideration**), DFC will review the process by which the Project has incorporated **Social Risk Due Diligence** into its assessment and operations. The following general topics, when applicable, are examined during the environmental and social assessment review:

- Environmental issues, including site description, existing land use, description of manufacturing or commercial process, materials used and stored on-site, land use impacts resulting from the **Project**, impacts to any aquatic or terrestrial resources, biological diversity, including rare and endangered plants and animals and their habitat, air emissions, including emissions of **Greenhouse Gases**, energy efficiency, water use, liquid effluents and solid wastes, pollution controls or other mitigation measures employed, identification of project alternatives and opportunities to minimize adverse impacts and maximize benefits, occupational and community

health and safety protections, impact on the source of raw materials if derived from areas including ecologically sensitive areas and supply chains identified in Performance Standard 2. Category A projects are required to include a **Climate-related Vulnerability** assessment as part of the **ESIA**.

- Project-related social issues, including affected populations, housing, income, employment and working conditions, land use, visual impacts, noise and lighting impacts, as well as any fiscal, cultural, ethnic, religious, and **Human Rights** impacts. Information should also be provided on impacts to **Project Affected People** including any **Economic or Physical Displacement**, individuals and groups that may be particularly vulnerable because of gender, poverty or other factors, and the potential for increased transmission of communicable diseases. Where conditions exist for discrimination or community conflict, details should be provided, as well as management plans to mitigate impacts of the project on such conflicts. Project-related social impacts should be quantified to the extent feasible.

3.11 Greenfield Category A projects and significant expansions or modifications of existing projects that are screened as Category A require the submission of a full-scale **ESIA**. Depending on potential environmental and social risks DFC also may require the submission of a **Baseline Audit** of existing Category A or B facilities. The purpose of a **Baseline Audit** is to identify past and present concerns, current status of regulatory compliance, management systems and performance as well as potential risks and liabilities of the **Project**. Additional guidance on the format and content requirements for **ESIAs** and **Baseline Audits** may be found in Guidance Note 1 – Social and Environmental Assessment and Management Systems at: https://www.ifc.org/wps/wcm/connect/ab6cffa1-e357-42e3-a27b-c759ffa561a1/2007%2BUpdated%2BGuidance%2BNote_1.pdf?MOD=AJPERES&CVID=jgeuOU7

3.12 For Category B projects DFC requires submission of sufficient information and documentation on which to base the review of the **ESMS**. The level of detail required will vary depending on the type and size of the **Project**, but, at a minimum, **Applicants** should submit one or more documents or analyses that describe:

- The **Project** and its environmental and social aspects
- Maps, drawings or schematics of the **Project** and **Area of Influence**
- Compliance with the legal and regulatory framework of the host country and applicable international environmental, health and safety, and social, including labor, performance requirements (See Section 4.0)
- Key potential impacts and risks, including identification of any **Project Affected People** and estimated **Direct Emissions of Greenhouse Gases**
- Planned mitigation measures and any residual risks or impacts
- Planned monitoring and reporting of environmental and social performance
- A description of the process of **Meaningful Consultation**.

3.13 Projects that have been screened as Category C (i.e., projects with minimal environmental or social impacts) are not required to establish a formal **ESMS**, but are required to establish policies and procedures that will be used to guide the project (See Paragraph 2.10), submission of sufficient information necessary to confirm the absence of potential adverse environmental and social risks, and a worker and community grievance mechanism (See Paragraph 3.9).

3.14 When specific mitigation measures or actions are required for a project to comply with the **Performance Standards**, host country laws and regulations, or DFC's environmental and social requirements, **Applicants** are required to prepare and implement an **Environmental and Social Action Plan** ("**ESAP**"). The level of detail required will depend on the nature and magnitude of the risks and adverse impacts of the **Project** or **Subproject** and may range from a brief description to a series of specific plans. **ESAPs** are required for all Category A projects and for Category B projects that are dependent on mitigation and monitoring measures to avoid or reduce potentially significant environmental and social impacts. Draft **ESAPs** for Category A projects must be prepared as part of the required **ESIA** and made public in accordance with DFC's disclosure requirements. The **ESAPs** shall:

- Describe the actions necessary to implement mitigation measures or corrective actions to be undertaken
- Prioritize these actions
- Include a timeline for their implementation
- Be disclosed to **Project Affected People** and **Stakeholders** in a timely manner
- Describe the schedule and mechanism for external reporting on the implementation of the **ESAP**.

3.15 **Applicants** are required to establish, maintain, update and strengthen as necessary, an **ESMS** is required for effective project implementation, including any actions required under the **ESAP**. Management systems must have organizational structures with clearly defined roles, responsibilities and authorities, appropriate human and financial resources allocated for implementation and adequate training for employees and contractors. If there are material weaknesses in the management system, DFC will require strengthening of the management system as a condition of DFC support. Additional guidance on the establishment of an **ESMS** may be found in Guidance Note 1 –Assessment and Management of Environmental and Social Risks and Impacts:

https://www.ifc.org/wps/wcm/connect/ab6cfa1-e357-42e3-a27b-c759ffa561a1/2007%2BUpdated%2BGuidance%2BNote_1.pdf?MOD=AJPERES&CVID=jgeu0U7

Tailored Reviews

3.16 DFC undertakes detailed, tailored environmental and social reviews (See Paragraphs 3.16 to 3.33) for certain sectors and types of projects in response to DFC policies and practices and new DFC products or initiatives, which are based on emerging trends in international best practices related to environmental and social safeguards.

Investments in Large, Diverse Enterprises

3.17 Applicants seeking DFC support for investments in large, diverse enterprises are required to define the scope of the intended use of proceeds from the investment in terms of specific projects for which the environmental and social impacts can be readily assessed.

Project Development Activities

3.18 Project development activities including non-invasive, non-construction activities are often required in response to competitive bidding announcements or to raise capital. These activities include the posting of bid bonds and preparing environmental impact assessments, feasibility studies, and design documents. Projects involving these types of activities are screened as Category C provided:

- The projects do not involve invasive or construction activities
- The project under development is not subject to a categorical prohibition (See Appendix B); and
- DFC support for the development investment does not obligate DFC to support future project implementation.

Construction and Operations of Dams

3.19 For projects involving the construction and operation of dams that are not otherwise categorically prohibited (See Appendix B), DFC applies screening and environmental and social assessment criteria consistent with international best practice. ESAs prepared for hydroelectric projects should, at a minimum, address issues cited in the International Finance Corporation's Good Practice Note: Environmental, Health and Safety Approaches for Hydropower Projects.

https://www.ifc.org/wps/wcm/connect/79ad4356-6f18-4955-bf35-adcd6d072897/GPN_EHSHydropower.pdf?MOD=AJPERES&CVID=mR5BwAV

Forestry Projects

3.20 DFC will not support commercial forestry projects that involve the extraction of timber from **Critical Forest Areas** (See Glossary) or related **Critical Natural Habitats** (See Glossary) or the clearance of **Critical Forests** or related **Critical Natural Habitats** for non-forestry activities (See Appendix B). All projects involving timber extraction from **Natural Forests**, including all boreal, temperate, and plantation **Forests** must be, and remain, certified by an independent non-governmental organization.

3.21 Certifiers must be accredited by an international accreditation body (such as the Forest Stewardship Council (<https://us.fsc.org/en-us>) that can hold the certifier accountable to a common set of environmental and social principles and procedural protocols, including periodic review and re-accreditation. The purpose of certification is to demonstrate that timber extraction activities are managed sustainably.

3.22 Any forest product labeling associated with a certified **Forest** must be guaranteed by a credible independent certification body that connects the labeled product to its certified forest- of-origin.

Health Care

3.23 All projects providing patient care must obtain satisfactory accreditation based on a quality evaluation of the technical competence of the institution's resources and organization by an internationally recognized accreditation organization (such as those accredited by ISQua <https://www.isqua.org/>) or in the case of a health care service provider for which accreditation standards are not available, certification or similar high quality rating by a third-party expert in the health care field satisfactory to DFC. All projects must maintain this accreditation, certification or high-quality rating throughout the term of DFC support. The cost of this accreditation or certification is the responsibility of the **Applicant**.

3.24 DFC may consider support for health care projects that include elements of traditional medicine where there is an established national policy that regulates traditional treatments; establishes the role of traditional medicine within the national health care system; and clarifies the relationship between traditional medicine and the official health services system.

3.25 All hospitals, medical centers, and other projects that purchase pharmaceuticals for the purpose of providing them, directly or indirectly, to patients shall restrict drug purchasing to pharmaceuticals registered for use in the host country and to drug suppliers that comply with the World Health Organization's Good Manufacturing Practices for both imported and locally produced goods. https://www.who.int/medicines/areas/quality_safety/quality_assurance/TRS986anne_x2.pdf?ua=1

3.26 Projects involving the manufacturing of pharmaceuticals or medical equipment are reviewed closely. Prior to supporting such projects, evidence that the safety and effectiveness of such products are certified by the U.S. Food and Drug Administration or an equivalent foreign public health authority must be received. DFC also requires evidence that the products have not been withdrawn from the U.S. market for reasons of safety or lack of effectiveness.

Renewable Fuels Projects

For the purposes of this policy **Renewable Fuels** are defined as fuels that meet all of the following criteria:¹ (1) fuels that are produced only from Renewable Biomass; (2) fuels that are used to replace or reduce the quantity of fossil fuel present in transportation fuel, heating oil or jet fuel; and (3) fuels that meet lifecycle **Greenhouse Gas** emissions reduction thresholds when compared to the 2005 baseline average gasoline and diesel that they replace. Emissions reduction thresholds are as follows: **Renewable Fuel** – 20 %; **Advanced Biofuel** – 50%; **Biomass-based Diesel** – 50%; and **Cellulosic Biofuel** – 60%. **Renewable Fuels** projects that meet these criteria are considered “clean technology” projects for the purposes of Section 8.7 of this policy provided the **Applicant** annually demonstrates compliance with the criteria in this section through an annual independent third-party audit. **Direct Greenhouse Gas Emissions** associated with fossil fuel combustion in **Renewable Fuel** projects are subject to DFC **Greenhouse Gas** policy requirements (Section 8), including annual cap allocation (Sections 8.4) and Category A screening thresholds (See Appendix A).

¹ For additional information on eligibility criteria, lifecycle analyses and third-party audit requirements see 40 CFR Part 80—Regulation of Fuels and Fuel Additives. U.S. Environmental Protection Agency.

Financial Intermediaries

3.27 No **Financial Intermediary** may use DFC support for the purpose of investing in, lending to, or providing services to an entity engaged in a **Categorically Prohibited Project**.

3.28 Review of **Subprojects** involves screening, assessment, disclosure, compliance and monitoring procedures as all other direct **Applicants**, including Category A disclosure and **Greenhouse Gas** policy requirements (See Section 8). Subprojects may be provided prior written consent on the basis of potential environmental and social risks.

Environmental and social review of **Subprojects** of **Financial Intermediaries** are not delegated unless consent is provided in advance based on criteria in Paragraph 3.31.

3.29 A **Financial Intermediary's** proposed investment or lending strategy is taken into account in DFC's assessment of the risk of adverse environmental and social impacts associated with the **Financial Intermediary's Subprojects** at the time the **Financial Intermediary's** structure is approved by DFC. Factors taken into consideration include the size and nature of the prospective investments, the prospective use of proceeds from the investment, the term of the investment, the targeted investment sectors and the capacity of the **Financial Intermediary** to identify and mitigate the risk of adverse environmental and social impacts associated with their **Subprojects**. All prospective investments may be provided a consent, provided that the **DFC Agreement** contains exclusion lists prohibiting investments in entities engaged in categorically prohibited activities or activities likely to have significant adverse environmental or social impacts.

3.30 Financial Intermediaries are required to maintain at all times an ESMS to ensure compliance with DFC policies (See Paragraph 3.10).

3.31 If a Financial Intermediary's lending or investment strategy indicates the potential for significant adverse environmental, health, safety or social impacts associated with prospective investments, additional mitigation to reduce risk and potential liabilities may be required. Examples of additional mitigation include:

- Additional capacity building including retention of an environmental and social coordinator to provide full time supervision and implementation of DFC requirements with respect to environmental, health, safety and social concerns;
- Use of binding restrictions on the use of proceeds; and/or
- More frequent reporting to the DFC on the environmental and social performance of **Subprojects**.

3.32 Where **Financial Intermediary** operations and related investments could have significant adverse environmental or social impacts, the Financial Intermediary shall cause, or in the case of non-controlling minority positions use commercially reasonable efforts to cause, such investments to (a) identify potential environmental and social risks and mitigants through an environmental/social impact assessment, and (b) require appropriate actions to ensure **Subproject'** operations are in compliance with DFC policies.

In cases where the relevant IFC Performance Standards are more stringent than host country law, the FI shall apply the relevant IFC Performance Standards to their operations and investment activities with specific targeted actions to be implemented over an appropriate timetable. For the avoidance of doubt, in cases where **Financial Intermediaries** are providing debt, **Financial Intermediaries** shall cause or use commercially reasonable efforts to cause (as applicable) compliance with (a) and (b) above by contractually requiring such compliance and enforcing such contractual rights.

4. ENVIRONMENTAL AND SOCIAL STANDARDS

4.0 Objectives: (1) to specify standards of performance necessary to achieve environmentally and socially sustainable outcomes; and (2) to identify project- specific international best practices.

4.1 Scope of Application: The requirements in this section apply to all projects supported through DFC insurance, reinsurance, direct loans and loan guaranties.

DFC Roles and Responsibilities

4.2 All projects must meet the **Performance Standards**, applicable **Industry Sector Guidelines**, including any revisions issued by **IFC**, **Internationally Recognized Worker Rights**, and host country laws, regulations and standards related to environmental and social performance, including host country obligations under international law. In addition, where DFC has developed sector-specific approaches (See Paragraphs 3.17 – 3.33), DFC requires projects to meet those requirements, when applicable. In accordance with the provisions of **Performance Standard 3**, alternative pollution prevention and control technologies may be approved, provided that (1) the alternative performance levels are consistent with the overall requirements of **Performance Standard 3**; and (2) the alternative performance levels are protective of the environment and **Project Affected People** within the **Area of Influence**.

4.3 DFC is responsible for identification of supplemental standards (over and above those standards identified in Paragraph 4.2) when additional preventative or protective measures are necessary to adequately mitigate specific project-related environmental and social risks and impacts. Supplemental standards include (1) standards issued by other international organizations relating to public health, safety and the environment such as the World Health Organization, the International Maritime Organization, the Food and Agriculture Organization and the International Civil Aviation Organization; (2) relevant and applicable U.S. federal standards; and (3) standards of best practice developed by governments, industry associations, and non-governmental organizations.

4.4 DFC is responsible for ensuring that all **DFC Agreements** include the specific performance requirements that a project is required to meet throughout the life of DFC support.

4.5 DFC is responsible for disclosing project-specific performance requirements in project summaries that are posted on the DFC web site. Any approved alternative pollution prevention and control technologies will be identified in project summaries.

4.6 For those projects in which a Multilateral Development Bank (MDB) such as the European Bank for Reconstruction and Development, the African Development Bank, the Asian Development Bank, or the Inter-American Development Bank is involved, DFC may apply the policies, in whole or in part, of the respective MDB (other than the **Performance Standards**) to a project to facilitate DFC in the transaction.

Applicant Roles and Responsibilities

4.7 Applicants are required to meet the **Performance Standards, Industry Sector Guidelines, Internationally Recognized Worker Rights**, and host country laws, regulations and standards related to environmental and social performance, including host country obligations under international law. **Applicants** are also required to meet any sector-specific requirements (See Paragraphs 3.17 – 3.33), when applicable, and supplemental performance requirements as identified by DFC (See Paragraph 4.3).

4.8 The requirement to meet the project-specific performance requirements extends to on-site contractors and sub-contractors of the **Project** that work for a substantial duration of time on the **Project** or are material to the primary operations of the **Project**. **Applicants** are responsible for ensuring that on-site contractors and sub- contractors meet the performance requirements.

4.9 Projects that involve new facilities or business activities are required to meet the project- specific performance requirements from the outset.

4.10 For existing projects (e.g., privatizations), the performance requirements must be attained within a reasonable period of time following the receipt of DFC support, with the exception of **Labor Rights** requirements, which must be met from the outset. If material compliance has not been demonstrated at the time of DFC approval, **Applicants** are required to prepare and implement a corrective action or **Remediation Plan** demonstrating how compliance with the **Project**-specific requirements will be achieved within the specified time period. **Remediation Plans** for Category A projects are subject to public disclosure and third- party audits.

4.11 Applicants seeking DFC support must demonstrate compliance with host country environmental, health, safety and social requirements. Where host country requirements differ from the **Performance Standards, Industry Sector Guidelines, and Internationally Recognized Worker Rights**, the project is expected to meet whichever are more stringent.

Revision of Standards

4.12 International organizations, the United States Government and industry groups periodically revise guidelines and standards to reflect technological advances and improved understanding of environmental, health, safety and social risks. Complete applications that are received after the effective date of a new guideline or standard will be assessed against that new guideline or standard.

4.13 Complete applications that are received before the effective date of a new guideline or standard will be assessed against the guideline or standard in effect on the date of application provided that DFC commitment to provide support is achieved within one year of the effective date of the new guideline or standard. If commitment is not achieved within one year after the effective date of the new guideline, the project will be subject to the new guideline.

5. PUBLIC CONSULTATION AND DISCLOSURE

5.0 Objectives: (1) to ensure that **Project Affected People** are informed and consulted during project preparation and implementation; and (2) to enhance transparency and accountability related to DFC's environmental and social management.

5.1 Scope of Application: The requirements contained within this section apply to all projects supported through DFC insurance, reinsurance, direct loans, or investment guaranties, including support through **Financial Intermediaries**.

DFC Roles and Responsibilities

5.2 DFC makes information available concerning its activities to enable **Applicants** and **Stakeholders**, including **Project Affected People** and members of the interested public. Institutional information that is made available on DFC's web site includes annual reports, audited financial statements, program handbooks, Board resolutions, claims determinations, arbitral awards, bilateral agreements and annual **Greenhouse Gas** accounting for DFC's portfolio.

5.3 Although disclosure of project-related information is primarily the responsibility of **Applicants**, DFC is committed to making non-confidential project-specific information available to enhance transparency and accountability and to foster good governance. Project-related information that is posted on the DFC web site includes project summaries, summaries of DFC environmental and social site-monitoring reports, DFC's active portfolio list and portfolio company investments of DFC-supported investment funds. Notwithstanding this commitment, DFC may withhold records or portions of records that are exempted from public disclosure under the Freedom of Information Act (FOIA). Additional information on DFC's FOIA implementing regulation is available at <https://www.dfc.gov/who-we-are/transparency-and-accountability>

5.4 DFC provides advance notice and information about potential projects to be voted on by DFC's Board of Directors. Information summaries on projects to be voted on by the DFC Board are made public at least 15 days in advance of the Board meeting. The summaries include the following environmental and social information as appropriate to the nature and scale of a project and commensurate with the potential environmental and social risks and impacts:

- Rationale for screening category
- Environmental and social standards used in the project assessment
- Description of the major environmental and social risks and impacts of the **Project**
- Key measures required to mitigate environmental and social risks to acceptable levels
- Description of action(s) required to achieve conformance with the environmental and social standards used in project assessment
- Information related to DFC environmental and social site monitoring visits; and
- Description of the **Applicant's** consultation with **Project Affected People**.

5.5 DFC provides advance notice and information on Category A projects, whether subject to Board approval or not, to ensure that interested parties have sufficient information to meaningfully contribute to the DFC decision-making process. **ESIAs** and **Baseline Audits** required for Category A projects are made public on DFC's web site for a designated comment period of not less than 60 days before DFC makes a decision on whether to support a project. Acceptance of a document for disclosure does not imply project approval. Public comment on the projects are invited and considered by DFC in advance of any decision on a project. No application for a Category A project may be approved without this public disclosure and opportunity for comment. At the same time the **Applicant's ESIA or Baseline Audit** is released for public comment, DFC posts on its web site an initial project summary. The initial project summaries identify the rationale for designating the project as Category A, environmental and social standards to be used in project assessment and the location for local access to environmental and social project information.

5.6 Comments received on projects, including any comments received during public hearings, as well as DFC management's response to those comments, will be posted on DFC's web site at least 7 days prior to presenting a project for approval.

5.7 For those projects with the potential for significant adverse impacts on **Project Affected People**, DFC will confirm prior to project approval that: (1) the **Applicant** has engaged the affected groups and communities as required under Performance Standard 1 and (2) there is **Broad Community Support** for the **Project**.

5.8 DFC also prepares and discloses project summaries which contain environmental and social information related to non-Category A, non-Board projects. These project summaries are posted on DFC's web site for a period of not less than 30 days prior to execution of the **DFC Agreement**.

5.9 An **Applicant's ESIA or Baseline Audit** submitted for disclosure often does not contain all of the final negotiated commitments made by an **Applicant** to mitigate or remediate environmental and social risks and impacts. The final **ESAP** or final **Remediation Plan** for Category A projects is made public on DFC's web site following DFC acceptance.

5.10 DFC requires **Applicants** to conduct and certify that they have conducted third-party audits for all Category A projects. Third-party auditors must supply certifications that the audit has been completed and that the Category A projects are in compliance with all environmental and social conditions contained within the **DFC Agreement**. The auditor certification and a publicly releasable summary of audit findings is made public on the DFC web site.

5.11 DFC is required to notify host country governments of any environmentally sensitive investment considered for support. This notification is required to identify guidelines and other standards of international organizations relating to public health, safety or the environment that are applicable to the **Project** and, to the maximum extent practicable, any restriction related to public health or safety that would apply to the project if it were undertaken in the United States. This requirement applies to all proposed investment support screened as Category A. All **Host Country Notifications** are made public on DFC's website.

5.12 DFC is committed to disseminating information that meets its standards for objectivity, integrity and utility in accordance with its Information Quality Guidelines.

5.13 DFC has established an Office of Accountability to assess and review complaints about DFC-supported projects. The Office of Accountability gives local communities, which may be materially, directly and adversely affected by DFC-supported projects, a means through which complaints may be raised. The Office of Accountability's mandate is to deliver problem-solving and compliance review services in a manner that is fair, objective and transparent, thereby enhancing DFC's mission effectiveness. Requests for assistance should be directed to:

Director, Office of Accountability 1100 New York Ave., NW Washington DC 20527

Tel. 1-202-357-3910

Fax 1-202-408-5133

E-mail: accountability@DFC.gov

Applicant Roles and Responsibilities

5.14 Applicants must meet the requirements of the **Performance Standards**, and host country laws, regulations and standards related to public consultation and disclosure of information. In order to more effectively manage risks and impacts of projects, all **Applicants** are required to engage **Project Affected People** through (1) disclosure of information, (2) **Meaningful Consultation** and (3) the development and implementation of systems for responding to complaints and grievances commensurate to the level of social risk. The nature, frequency and level of effort of this engagement will be commensurate with the project's risks and impacts and the project's phase of development. Costs associated with translation, dissemination of information and consultation are the responsibility of the **Applicant**.

5.15 Applicants are required to disclose to **Project Affected People** DFC's potential participation in a proposed investment.

5.16 For projects with the potential for significant adverse impacts on **Project Affected People**, **Applicants** are required to (1) engage the affected groups and communities as required under **Performance Standard 1** and (2) demonstrate that there is **Broad Community Support** for the **Project**. For projects involving impacts to Indigenous People or Cultural Heritage, Applicants are required to comply with the additional consultation and disclosure requirements identified in Performance Standards 5, 7 and 8.

5.17 If the **Project** is screened as Category A, **Applicants** are required to submit an **ESIA** (and for existing projects a **Baseline Audit**) for public disclosure on the DFC web site. **ESIAs** and **Baseline Audits** submitted for public disclosure must be in English or accompanied by an English- language translation. The **ESIAs** and **Baseline Audits** must adequately describe potential risks and proposed mitigation measures and include a draft **ESAP**, draft **Remediation Plan** (if required) and **Stakeholder engagement plan** (See

paragraph 5.19). At a minimum, the **Applicant** is required to provide a local language translation of the executive summary of the

ESIA (and **Baseline Audit**) and make the summary available to **Project Affected People** in a format that is readily understandable and tailored to meet the information needs of **Project Affected People**. The translated summary should be distributed by means that take into account the ability of **Project Affected People** to receive, address and effectively comment on the content. DFC also discloses this summary on its web site.

5.18 Projects are required to develop and implement a **Stakeholder** engagement plan tailored to project risks and impacts in accordance with the requirements of **Performance Standard 1**. The **Stakeholder** engagement plan is required to be included as part of the document(s) submitted to DFC for disclosure under Paragraph 5.5 of this policy.

5.19 Applicants are required to provide periodic reports (at least annually) to **Project Affected People** concerning (1) implementation of any **ESAP** and **Remediation Plan** and (2) issues that have been identified as of concern to those **Project Affected People**. Any material changes to the project design, management systems or mitigation measures will also be communicated to **Project Affected People**. All reports must be in a language and format accessible to the **Project Affected People**.

5.20 Prior to DFC's issuance of approval for a project that significantly involves an **Extractive Industry** and where DFC's support to the project is valued at \$10 million or more (including contingent liability) (1) **Applicants** must agree to implement Extractive Industry Transparency Initiative (EITI) principles and criteria, or substantially similar principles and criteria related to the **Project**; and (2) the host country where the project is to be carried out must have committed to EITI principles and criteria or substantially similar principles and criteria or be taking the necessary steps to establish functioning systems. DFC may approve an **Extractive Industry** project if the host country does not meet the requirements of this paragraph only if DFC determines that it is in the foreign policy interest of the United States to provide support to the **Project** and the host country does not prevent the **Applicant** from meeting the disclosure requirements of (1) above.

6. CONDITIONS AND COMPLIANCE

6.0 Objectives: (1) to establish specific requirements for environmental and social performance in **DFC Agreements**; (2) to define remedies in the event performance requirements are not met.

6.1 Scope of Application: The requirements contained within this section apply to all projects supported through DFC insurance, reinsurance, direct loans, or investment guaranties, including support through **Financial Intermediaries**.

DFC Roles and Responsibilities

6.2 DFC reviews information provided by the **Applicant** with respect to baseline environmental and social conditions, technical design, operating performance, mitigation measures and residual impacts of projects. Based on this information, DFC develops appropriate undertakings (covenants) required of the **Applicant**, which are included in the **DFC Agreement**. The terms of the covenants take into account, among other things, the level of project control which the **Applicant** will have regarding compliance with DFC standards and the **Applicant's** role in the **Project**. The covenants remain in effect during the term of the **DFC Agreement**. The coverage of the covenants includes (1) compliance with all applicable **Performance Standards, Industry Sector Guidelines, Internationally Recognized Worker Rights**, host country laws, regulations, and standards, including host country obligations under international law, and any supplemental standards identified by DFC; (2) mitigation commitments, including those contained within any required **ESAP** or **Remediation Plan**; (3) notification and reporting requirements, including the format for annual reports based on DFC-approved monitoring methodology; and (4) on-going **Stakeholder** engagement and reporting requirements.

6.3 All **DFC Agreements** include contractual language that addresses **Internationally Recognized Worker Rights** in substantially the following form (as outlined in Section 1451(d)(2) of the **Build Act of 2018**.):

“The person receiving support agrees not to take actions to prevent employees of the foreign enterprise from lawfully exercising their right of association and their right to organize and bargain collectively. The person further agrees to observe applicable laws relating to a minimum age for employment of children, acceptable conditions of work with respect to minimum wages, hours of work, and occupational health and safety, and not to use forced labor or the worst forms of child labor (as defined in section 507 of the Trade Act of 1974 (19 U.S.C. 2467)). The person is not responsible under this paragraph for the actions of a foreign government.”

6.4 In addition to the environmental and social performance requirements that are included in all covenants contained in **DFC Agreements**, in the case of all Category A projects **DFC Agreements** include, at a minimum, the following requirements:

- Develop and implement an **ESAP**
- Prepare and submit to DFC an annual environmental and social report summarizing the environmental and social performance based on monitoring of the **Project** over the preceding year to demonstrate compliance with **DFC Agreement** covenants and conditions

- Timely notification to DFC of the occurrence of any accident that has resulted in a disability or loss of human life, or that has, or that could be foreseen to have, a material adverse impact on the environment or local communities; and
- Conduct at least one third-party audit. The timing of the third-party audit is specified in the **DFC Agreement** covenants and is reflective of the nature and magnitude of the risks in the **Project** lifecycle (e.g., if the major risks are expected to occur during construction, the audit is required to take place during construction).

6.5 In addition to the environmental and social performance requirements that are included in all covenants contained in **DFC Agreements**, in the case of all **Special Consideration** projects **DFC Agreements** include, at a minimum, the following requirements:

- Prepare and submit to DFC an annual report summarizing the project's performance over the preceding year, based on monitoring of identified social risks and impacts, to demonstrate compliance with **DFC Agreement**; and
- Conduct at least one third-party audit. The timing of the third-party audit is specified in the **DFC Agreement** covenants and is reflective of the nature and magnitude of the risks in the **Project** lifecycle (e.g., if the major risks are expected to occur during construction, the audit is required to take place during construction).

6.6 For all projects, material misrepresentations or material non-compliance with contractual environmental and social provisions, including reporting requirements, may constitute an event of default under the terms of the applicable **DFC Agreement**. DFC determines what is material and whether a default is curable or incurable. DFC makes determinations as to materiality based, for example, on the severity of the environmental, health, safety or social, including labor, impacts or other result caused by the non-compliance and the nature and degree of such non-compliance by the **Applicant**.

6.7 In the case of a curable default, remediation generally is required by DFC to cure the default. In the case of an incurable default, DFC may exercise contractual remedies including insurance contract termination, acceleration of loan repayment, or divestiture of an investment of a DFC-supported investment fund.

Applicant Roles and Responsibilities

6.8 Applicants are required to comply with all contractual conditions, covenants, and representations whether or not the **Applicant** has a controlling interest in the **Project**. The terms of the applicable covenants, as well as DFC's remedies for breach thereof, will appropriately reflect the nature of the **Applicant's** role and interest in the project.

6.9 Applicants investing in Category A projects or **Special Consideration** projects are required to conduct additional certified third-party audits if: (1) the **Applicant** fails to submit contractually required annual self-monitoring reports in a timely manner, (2) DFC monitoring or other information indicates a need for additional independent audits, or (3) when project risks are expected to change over time.

6.10 If DFC requires the preparation of a **Remediation Plan** for a **Subproject**, **Financial Intermediaries** are required to enter into an agreement with the applicable **Subproject** to adopt and to implement the required plan to the satisfaction of DFC. DFC will work with **Financial Intermediaries** to review and modify the plan as required. Following acceptance of the plan, the **Financial Intermediary** shall use all reasonable efforts, including the enforcement of related rights, to cause the **Subproject** to implement the plan as promptly as possible. Final **Remediation Plans** for Category A projects are made public on the DFC web site.

7. MONITORING

7.0 Objectives: (1) to review and evaluate DFC-supported projects' compliance with the environmental and social performance requirements; (2) to evaluate the effectiveness of mitigation measures, action plans, and corrective actions.

7.1 Scope of Application: The requirements contained within this section apply to all projects supported through DFC insurance, reinsurance, direct loans, or investment guaranties, including support through **Financial Intermediaries**.

DFC Roles and Responsibilities

7.2 DFC monitors project compliance with all environmental and social requirements (and underlying representations) that are reflected in conditions and covenants in **DFC Agreements** throughout the term of the contract. DFC monitors changes in projects and local context that may affect the environmental and social profile of projects.

7.3 DFC or its consultants conduct periodic site visits to DFC-supported projects to review their environmental and social performance and to ensure that they meet the environmental and social requirements in the **DFC Agreements**. DFC site visits are determined through a risk-based prioritization process. The scope, timing and periodicity of the visits are commensurate with the significance and severity of environmental and social risks and impacts of a project. DFC endeavors to conduct at least one site visit to all Category A projects and **Special Consideration** projects within three years of execution of the **DFC Agreement**. A summary of the site visit findings will be made public on DFC's web site.

7.4 DFC reviews periodic monitoring reports submitted by **Applicants** to ensure that adverse risks and impacts are mitigated as required in **DFC Agreements**.

7.5 DFC works with **Applicants** to rectify any failures to comply with the environmental and social requirements in the **DFC Agreements** and exercises remedies to either reestablish compliance or pursue termination of DFC support.

Applicant Roles and Responsibilities

7.6 All DFC-supported projects that have been operational for at least 12 months are required to submit an annual Development Outcomes Survey. The survey is one of the tools used by DFC to indicate compliance with DFC's policy requirements, including environmental and social requirements.

7.7 Annual environmental and social reports are required for all Category A projects and some Category B projects. Annual environmental and social reports enable DFC to monitor the performance of the project with respect to environmental, occupational and community health, safety and social issues. At a minimum, the reports include information on the following:

- Results of environmental and social monitoring or sampling activity
- Compliance with all conditions and covenants in **DFC Agreement**
- Project-related accidents impacting the environment or **Project Affected People** or resulting in a disability or loss of life
- Summary of training provided on environment, health, and safety issues

- Environmental and safety deficiencies identified by the local regulatory authorities as well as any remedial actions taken
- Community engagement activities
- Complaints or grievances received from **Project Affected People** or **Stakeholders** and actions taken to resolve the issues.

7.8 Annual reports are required for all **Special Consideration** projects. Annual reports enable DFC to monitor the performance of the project with respect to heightened social risks. The annual report for **Special Consideration** projects will summarize the social performance based on monitoring of the **Project** over the preceding year to demonstrate compliance with **DFC Agreement** covenants and conditions. At a minimum, the reports should contain the following:

- Results of social impact monitoring and/or stakeholder engagement activities pertaining to **Special Consideration** status
- Compliance with all conditions and covenants in DFC Agreements pertaining to **Special Consideration** status
- Summary of compliance issues identified by regulatory authorities pertaining to **Special Consideration** status and any remedial actions taken
- Summary of complaints or grievances received from **Project Affected People**, including **Workers**, or **Stakeholders** and actions taken in response to complaints or grievances.

7.9 Applicants are required to conduct and certify that third-party audits for all Category A projects and **Special Consideration** projects have been completed. DFC may require third-party audits of some Category B projects. The purpose of the audit is to (1) evaluate a project's compliance with all environmental and social requirements (and underlying representations) that are reflected in **DFC Agreements**; and (2) validate the methodology used in Annual Environmental and Social Reports required under **DFC Agreements**.

7.10 At least one third-party audit is required for all Category A projects and **Special Consideration** projects. The audit should be performed at a time specified in the DFC agreement, and usually within the first three years of receiving DFC support. For certain projects, third-party audits may be required during the construction phase. **Applicants** are required to obtain DFC approval of the audit scope of work and the selection of third-party auditors. The **Applicant** is responsible for all costs associated with conducting the audit(s).

7.11 DFC requires submission of certification from the third-party auditor that the audit has been conducted in accordance with the agreed scope of work and that the **Project** is in compliance with all environmental and social conditions and covenants (and underlying representations) contained within the **DFC Agreement**. The auditor certification for Category A projects and **Special Consideration** projects is made public on the DFC web site. The third-party audit certification for Category A projects and **Special Consideration** projects also must include a summary of the audit findings which can be made public on DFC's web site.

7.12 Applicants are required to retain the rights afforded under each investment structure, to ensure that DFC has the rights to (1) visit and inspect projects and **Subprojects**; (2) access project and **Subproject** environmental and social performance monitoring records, including human resources records; and (3) meet with project and **Subproject** management and **Project Affected People**.

8. CLIMATE CHANGE AND RENEWABLE ENERGY

8.0 Objectives: (1) to support the reduction of **Greenhouse Gas** emissions associated with projects; (2) to promote energy efficiency and conservation; (3) to promote low and no-carbon fuels and technologies; and (4) to encourage carbon sequestration in land use and forestry practices.

8.1 Scope of Application. The requirements contained within this section apply to all projects supported through DFC insurance, reinsurance, direct loans, or investment guaranties, including support through **Financial Intermediaries**.

DFC Roles and Responsibilities

8.2 New investments are screened for **Climate-related Risks** and **Climate-related Vulnerability**.² A desk-based climate vulnerability/impact assessment will utilize publicly available tools and databases such as the World Bank Climate Change Knowledge Portal.

8.3 DFC is continuing OPIC's commitment to reduce the **Direct Greenhouse Gas Emissions** associated with projects in OPIC's active portfolio by 50 percent over a fifteen-year period (June 30, 2008 – September 30, 2023). "Active portfolio" is defined as all insurance contracts in force and all guaranty and direct loans with an outstanding principal balance.

8.4 The baseline that is used to assess progress toward the commitment identified in Paragraph 8.2 is the sum of Direct Emissions from projects with Greenhouse Gas emissions exceeding 25,000 metric tonnes of CO_{2eq} per year to which OPIC provided a commitment between 1974 and 2008 and which were in OPIC's active portfolio on June 30, 2008.

8.5 In order to achieve the 50 percent reduction goals (Paragraph 8.2) DFC establishes an annual transactional cap for all new projects with significant **Direct Greenhouse Gas Emissions**.³ For the purposes of allocation of the annual cap, new projects are defined as those projects that receive DFC support within a given year. In cases where an **Applicant** requests DFC support for a portfolio of projects, DFC will allocate cap individually, as necessary, to each **Project** within the **Applicant's** portfolio. For years in which the annual emissions associated with DFC committed projects are less than the annual cap for that year, the remaining capacity may be allocated to subsequent years. Allocation of the annual transactional cap is at DFC's discretion. With respect to projects that involve the construction of coal-fired power plants, DFC will give strong preference to projects that capture and sequester 85 percent of **Greenhouse Gas** emissions.

² Executive Order 13677 (September 23, 2014) requires the integration of climate-resilience considerations into all United States international development work.

³ Projects that are exempt from this requirement are any coal-fired or other power generation project the purpose of which is to (i) provide affordable electricity in International Development Association (IDA)-eligible countries; and (ii) increase exports of goods and services from the United States or prevent the loss of jobs from the United States.

8.6 Extension of financing, insurance and reinsurance terms shall be treated as new commitments for the purpose of this policy.

8.7 Projects involving **Renewable Energy** are assigned a **Greenhouse Gas** emission level of zero (provided there are no fossil fuel components of the **Project**) for the purpose of this policy.

8.8 Recognizing that meaningful reductions in **Greenhouse Gas** emissions can be achieved either through: (a) modest percent energy efficiency improvements in large projects; (b) large percent energy efficiency improvements in small projects; or (c) significant reduction in direct **Greenhouse Gas** emissions in any project. Projects that achieve either energy efficiency improvement of 15 percent or more or significant **Direct Greenhouse Gas Emissions** reductions of greater than 100,000 tons CO_{2e}/year are assigned a **Greenhouse Gas** emission level of zero for the purposes of this policy, provided **Life Cycle Accounting** demonstrates that the project will not result in a net increase in emissions over the projected life of the project when compared to the “no project” alternative. Projects that fail to meet either the 15 percent efficiency threshold or the absolute aggregate emissions reduction target will have their entire net emissions counted.

8.9 DFC tracks and annually reports direct and indirect **Greenhouse Gas** emissions associated with DFC office operations in accordance with accounting and reporting methods of the Greenhouse Gas Protocol (<http://www.ghgprotocol.org>) and Executive Order 13514.

8.10 DFC tracks and reports on an individual project basis the annual **Greenhouse Gas** emissions associated with projects within DFC’s active portfolio with **Direct Emissions** that exceed 25,000 metric tonnes CO_{2eq} per year. DFC calculates **Greenhouse Gas** emissions using internationally accepted GHG accounting protocols, including those from the U.S. Environmental Protection Agency and methodologies approved by the Climate Registry <http://www.theclimateregistry.org>.

8.11 DFC reports on an annual basis the projected **Greenhouse Gas** emissions associated with each newly committed project with **Direct Emissions** that exceed 25,000 metric tonnes of CO_{2eq} per year. Annual **Greenhouse Gas** emission estimates are subject to third party verification.

Applicant Roles and Responsibilities

8.12 For new projects, **Applicants** must meet the requirements of the **Performance Standards**, including resource efficiency requirements of **Performance Standard 3**, which require identification and implementation of technically and financially feasible and cost- effective measures for improving efficiencies in consumption of energy, water and other resources and material inputs. Rehabilitation and other modifications of existing projects should plan to meet the requirements of the **Performance Standards**, including resource efficiency requirements of **Performance Standard 3**, within a feasible period of time.

8.13 Consistent with the requirements of **Performance Standard 3**, **Applicants** must demonstrate that measures to reduce significant, **Project**-related **Greenhouse Gas** emissions were evaluated and that technically and financially feasible and cost- effective measures were incorporated into the final design of their **Project**.

8.14 As a condition of DFC support, all projects that are expected to produce or currently produce **Direct Emissions** exceeding 25,000 metric tonnes of CO_{2eq} per year must quantify and annually report to DFC the **Direct Emissions** from their **Project**. As a condition of DFC support and consistent

with the requirements of **Performance Standard 3, Applicants** also shall quantify the significant indirect emissions associated with off-site production of electricity used by the **Project**.

8.15 As a condition of DFC support, projects in **Energy Intensive Sectors** must meet energy efficiency guidelines and benchmarks established by international organizations, or develop and implement an energy management program to achieve these guidelines and benchmarks within a feasible period of time. Energy management programs should be appropriate to the nature and scale of project operations. The project shall document methods to reduce overall energy usage patterns through reduction in energy losses and improvements in energy conversion efficiency. In some projects, process modifications will be required to achieve guidelines and benchmarks. Industry specific resources on energy efficiency may be obtained from the Energy Star program.

<https://www.energystar.gov/buildings/facility-owners-and-managers/industrial-plants/measure-track-and-benchmark/energy-star-energy-0>.

9. COUNTRY ELIGIBILITY - LABOR

U.S. Law Requirements

9.0 Section 1451(d) of the **Build Act of 2018** contains the following provision:

The Corporation should support projects under title II in countries that are taking steps to adopt and implement laws that extend internationally recognized worker rights (as defined in section 507 of the Trade Act of 1974 (19 U.S.C. 2467)) to workers in that country, including any designated zone in that country.

Determining Country Eligibility: The USTR Process

9.1 The statute establishing the **Generalized System of Preferences** (“**GSP**,” See Glossary) program provides that the President of the United States shall not designate a country as a **GSP** beneficiary if it “has not or is not taking steps to afford **Internationally Recognized Worker Rights** to workers in that country” (See 19 U.S.C. 2462). In addition, the President must consider “whether or not such country has taken or is taking steps to afford . . . **Internationally Recognized Worker Rights**” in determining whether to designate a country as a beneficiary. For consistency of worker rights country-level determinations across the U.S. Government, DFC accepts the determinations made by the President for the purpose of the **GSP** program.

9.2 Through the **Office of the U.S. Trade Representative** (“**USTR**,”), the Trade Policy Staff Committee (“**TPSC**”), chaired by the **USTR** and made up of representatives from the **U.S. Department of State**, **U.S. Department of Labor**, and other U.S. Government agencies, advises the President as to which countries should be designated as **GSP** beneficiaries. Any person may request to have the **GSP** status of any beneficiary country reviewed with respect to any of the eligibility criteria, including the “taking steps” country standard for worker rights.

9.3 If a petition is accepted for review, the TPSC review typically includes examination of the issues raised in the petition and encouragement of the foreign government to implement worker rights reforms. USTR also solicits comments through the **Federal Register** and holds a public hearing.

9.4 Upon completion of a country review, a country’s eligibility status may remain unchanged, or be withdrawn, suspended, or limited. Based on the country review, should the President determine that a country’s **GSP** beneficiary status be withdrawn, suspended, or limited, DFC implements the determination with respect to its own programs. If a country’s **GSP** beneficiary status is withdrawn for failure to meet the statutory worker rights standard, the country becomes ineligible for DFC programs from the effective date of that country’s ineligibility under the **GSP** program. However, if a country becomes ineligible for **GSP** benefits on grounds other than worker rights, that country remains eligible for DFC programs.

9.5 Modifications to countries’ **GSP** eligibility are implemented by **Executive Order** or **Presidential Proclamation**, and are published in the **Federal Register**. If a country’s **GSP** beneficiary status is withdrawn or suspended for failure to meet the worker rights standard, the country list on DFC’s website is updated to remove the country as of the effective date of the withdrawal or suspension of **GSP** benefits, and DFC staff are notified of the change of country status. If the determination is that **GSP** eligibility should be limited, DFC staff are instructed to follow the same limitations in the conduct of DFC’s programs

Reviewing Country Eligibility: The DFC Process

9.6 In making its determinations as to whether non-GSP-eligible countries where DFC programs are being offered are taking steps to afford workers **Internationally**

Recognized Worker Rights, DFC utilizes a similar petition and review process. Petitions can be submitted to DFC at its annual public hearing to reexamine whether the status of any such country should be changed on worker rights grounds.

9.7 Upon an initial petition review, if DFC makes the determination that the petition merits a formal review, DFC will consult with, at a minimum, the **U.S. Department of State**, **U.S. Department of Labor**, and the **USTR** to carry out such a review. DFC may use multiple instruments to inform its country practices review, including:

- The **U.S. Department of State's Annual Country Reports on Human Rights Practices**
- Reports, observations and recommendations of the **International Labor Organization** (See Glossary, "ILO")
- Independent consultants' country practice reviews
- Information received through DFC's public hearings; and
- Consultations with labor organizations.

9.8 The "taking steps" standard is a purposely flexible standard to reflect the varying levels of economic and social development in developing countries. In its country reviews, DFC takes into account the totality of circumstances and facts available relevant to **Internationally Recognized Worker Rights**, and uses certain general criteria to assess whether countries meet the statutory standard, including:

Progress towards ratification of the relevant ILO eight fundamental conventions; and the progress the country has taken or is taking to adopt and implement laws and practices that extend Internationally Recognized Workers Rights in areas where national law and practice have not met the international standard.

Granting Country Eligibility on Worker Rights Grounds

9.9 For non-GSP-eligible countries that are deemed particularly sensitive on worker rights grounds due to a documented history of issues relating to **Internationally Recognized Worker Rights**, and where DFC seeks to implement its programs for the first time or to lift suspension of DFC programs due to foreign policy or other priorities, DFC will consult with, at a minimum, the U.S. Department of State, U.S. Department of Labor, and the USTR in making its "taking steps" determination.

Country Status Effect on DFC-Supported Projects

9.10 If a country becomes ineligible for DFC support on worker rights grounds, the change of status does not affect projects to which DFC made a legally binding commitment prior to the date on which the country status changed. All other projects that have not been formally committed to by DFC prior to the official ineligibility date will not be eligible for DFC support during the term of the country's ineligibility. If a country is under a formal review on worker rights grounds (by either the TPSC or DFC), projects that are in the application process are subject to a review that is sensitive to the labor issues highlighted in the GSP or DFC petition.

APPENDIX A – Illustrative List of Category A Projects

Although decisions on categorization are made on a case-by-case basis, the following list is indicative of the types of projects that are screened by DFC as Category A.

1. Large-scale industrial plants.
2. Large-scale industrial estates.
3. Crude oil refineries and installations for the gasification and liquefaction of 500 tonnes or more of coal or bituminous shale per day.
4. Major **Greenhouse Gas** emitting projects, defined as projects with **Direct Greenhouse Gas Emissions** of more than 100,000 (short) tons (91,000 metric tonnes) of CO_{2eq} per year.
5. Cement manufacturing with an annual production rate of greater than one million dry weight tons.
6. Integrated works for the initial smelting of cast iron and steel; installations for the production of non-ferrous crude metals from ore, concentrates, or secondary raw materials by metallurgical, chemical or electrolytic processes.
7. Installations for the extraction of asbestos and for the processing and transformation of asbestos and products containing asbestos; for asbestos-cement products with an annual production of more than 20,000 tonnes of finished product; for friction material with an annual production of more than 50 tonnes of finished product; and for other asbestos utilization of more than 200 tonnes per year.
8. Integrated chemical installations, i.e. those installations that manufacture, on an industrial scale, substances using chemical conversion processes in which several units are juxtaposed and are functionally linked to one another and which produce: basic organic chemicals; basic inorganic chemicals; phosphorous, nitrogen or potassium based fertilizers (simple or compound fertilizers); basic plant health products and biocides; basic pharmaceutical products using a chemical or biological process; explosives.
9. Projects that manufacture, store, transport or dispose hazardous or toxic materials.
10. All projects that pose potentially serious occupational or health risks.
11. Construction of motorways, express roads, lines for long-distance railway traffic, and airports with a basic runway length of 2,100 meters or more. Construction of new roads with four or more lanes or realignment and/or widening of an existing road so as to provide four or more lanes where such new road, or realigned and/or widened section of road, would be 10 km or more in a continuous length.

12. Pipelines, terminals, and associated facilities for the large-scale transport of gas, oil, and chemicals.
13. Large-scale seaports and also inland waterways and ports for inland waterway traffic; trading ports, piers for loading and unloading connected to land and outside ports (excluding ferry piers).
14. Waste-processing and disposal installations for the incineration, chemical treatment or landfill of hazardous, toxic or dangerous wastes.
15. Construction or significant expansion of large dams and reservoirs not otherwise prohibited.
16. Groundwater abstraction activities or artificial groundwater recharge schemes in cases where the annual volume of water to be abstracted or recharged amounts to 10 million cubic meters or more.
17. Industrial plants for the (a) production of pulp from timber or similar fibrous materials; or (b) production of paper and board with a production capacity exceeding 200 air-dried metric tonnes per day.
18. Large-scale peat extraction.
19. Large-scale quarries, mining, or processing of metal ores or coal.
20. Major exploration and development of onshore oil and gas reserves.
21. Exploration and development of offshore oil and gas reserves.
22. Installations for storage of petroleum, petrochemical, or chemical products with a capacity of 200,000 tonnes or more.
23. Large-scale logging.
24. Large-scale power transmission.
25. Municipal wastewater treatment plants servicing more than 150,000 people.
26. Municipal solid waste-processing and disposal facilities.
27. Large-scale tourism and retail development.
28. Large-scale land reclamation.
29. Large-scale primary agriculture/plantations involving intensification or conversion of previously undisturbed land.
30. Plants for the tanning of hides and skins where the treatment capacity exceeds 12 tonnes of finished products per day.

31. Installations for the intensive rearing of poultry or pigs with more than: 85,000 places for broilers and 60,000 places for hens; 3,000 places for production pigs (over 30 kg); or 900 places for sows.
32. All projects with potentially major impacts on people or which pose serious socio- economic risk, including **Physical and Economic Displacement**, impacts on Indigenous Peoples and adverse impacts on **Cultural Heritage**.
33. Greenfield housing developments that contain more than 2,500 residential units.
34. Projects, not categorically prohibited, but located in or sufficiently near sensitive locations of national or regional importance which may have apparent environmental impacts on:
 - Wetlands
 - Areas of archeological significance
 - Areas prone to erosion and/or desertification
 - Areas of importance to ethnic groups/indigenous peoples
 - Primary temperate/boreal **Forests**
 - Coral reefs
 - Mangrove swamps
 - Nationally designated seashore areas; and
 - Managed resource protected areas, protected landscape/seascape (International Union for the Conservation of Nature (IUCN) categories V and VI) as defined by IUCN's Guidelines for Protected Area Management Categories. Additionally, these projects must meet IUCN's management objectives and follow the spirit of IUCN definitions.

APPENDIX B – Categorical Prohibitions

1. Conversion or degradation of Critical Forest Areas¹ or forest-related Critical Natural Habitats.²
2. Leasing or financing of logging equipment, unless an environmental and social impact assessment indicates that; (i) all timber harvesting operations involved will be conducted in an environmentally sound manner which minimizes forest destruction; and (ii) the timber harvesting operations will produce positive economic benefits and sustainable forest management systems.
3. Construction of dams that significantly and irreversibly: (a) disrupt natural ecosystems upstream or downstream of the dam; or (b) alter natural hydrology; or (c) inundate large land areas; or (d) impact biodiversity; or (e) displace large numbers of inhabitants (5,000 persons or more); or (f) impact local inhabitants' ability to earn a livelihood.
4. Production or trade in any product or activity deemed illegal under host country laws or regulations or international conventions and agreements or subject to international phase-outs or bans such as pharmaceuticals,⁴ pesticides/herbicides,⁵ ozone depleting substances,⁶ polychlorinated biphenyls⁷ and other hazardous substances,⁸ wildlife or wildlife products regulated under the Convention on International Trade and Endangered Species of Wild Fauna and Flora,⁹ and trans-boundary trade in waste or wasteproducts.¹⁰
5. Resettlement of 5,000 or more persons.
6. Any impact on natural World Heritage Sites <https://whc.unesco.org/en/list/> unless it can be demonstrated through an environmental assessment that the project (i) will not result in the degradation of the protected area and (ii) will produce positive environmental and social benefits.
7. Any impact on areas on the United Nations List of National Parks and Protected Areas <https://www.protectedplanet.net/> unless it can be demonstrated through an environmental assessment that the project (i) will not result in the degradation of the protected area and (ii) will produce positive environmental and social benefits.
8. Extraction or infrastructure in or impacting protected area Categories I, II, III, and IV (Strict Nature Reserve/Wilderness Areas and National Parks, Natural Monuments and Habitat/ Species Management Areas), as defined by the International Union for the Conservation of Nature (IUCN). Projects in IUCN Categories V (Protected Landscape/Seascape) and VI (Managed Resource Protected Area) must be consistent

¹ A type of natural forest that qualifies as Critical Natural Habitat. Critical Forest Areas include primary Forests and old growth Forests that may serve as critical carbon sinks.

² 1) Existing internationally recognized protected areas, areas initially recognized as protected by traditional local communities (e.g., sacred groves), and sites that maintain conditions vital to the viability of protected areas (as determined by the environmental assessment procedure); and (2) Sites identified on supplementary lists by authoritative sources identified by OPIC. Such sites may include areas recognized by traditional local communities (e.g., sacred groves), areas with known high suitability for biodiversity conservation and sites that are critical for vulnerable, migratory or endangered species. Listings are based on systematic evaluations of such factors as species richness, the degree of endemism, rarity, and vulnerability of component species, representativeness and the integrity of ecosystem processes.

with IUCN management objectives <https://www.protectedplanet.net/> unless it can be demonstrated through an environmental assessment (i) there is no degradation of the protected area and (ii) there are positive environmental and social benefits.

⁴ A list of pharmaceutical products subject to phase-outs or bans is available at <https://www.who.int/medicines/publications/restrictions/en/>

⁵ A list of pesticides and herbicides subject to phase-outs or bans is available at <http://www.pic.int>

⁶ A list of the chemical compounds that react with and deplete stratospheric ozone together with target reduction and phase-out dates is available at <https://www.epa.gov/ozone-layer-protection/ozone-depleting-substances>

⁷ Polychlorinated biphenyls are likely to be found in oil-filled electrical transformers, capacitors, and switchgear dating from 1950 to 1985.

⁸ A list of hazardous chemicals is available at <http://www.pic.int> ⁹ A list of CITES species is available at <http://www.cites.org> ¹⁰ As defined by the Basel Convention; see <http://www.basel.int>

9. Production of, trade in or use of un-bonded asbestos fibers.¹²
10. Marine and coastal fishing practices, such as large-scale pelagic drift net fishing and fine mesh net fishing, harmful to vulnerable and protected species in large numbers and damaging to biodiversity and habitats.
11. Use of forced labor¹³ or child labor.¹⁴
12. Projects or companies known to be in violation of local applicable law related to environment, health, safety, labor, and public disclosure.
13. Projects or companies where the primary business activities are in the following prohibited sectors: gambling; media communications of an adult or political nature; military production or sales; alcoholic beverages (if contrary to local religious or cultural norms); or tobacco and related products.
14. Projects or companies that replace U.S. production or are likely to cause a significant reduction in the number of employees in the U.S. including “runaway plants” and outsourcing the provision of goods and services (e.g., Business Process Outsourcing) from the U.S.
15. Projects or companies subject to performance requirements that are likely to reduce substantially the positive trade benefits to the U.S.
16. Projects or companies in which host country governments have majority ownership or effective management control (except for investments in privatizing companies made in accordance with the Finance Agreement).
17. Companies found by a court or administrative body of competent jurisdiction engaging in unlawful monopolistic practices.
18. Projects or companies that provide significant, direct support to a government that engages in a consistent pattern of gross violations of internationally recognized **Human Rights**, as determined by the U.S. Department of State.
19. Projects or companies that perform abortions as a method of family planning; motivate or coerce any person to practice abortions; perform involuntary sterilizations as a method of family planning; coerce or provide any financial incentive to any person to undergo sterilizations; or perform any biomedical research which relates in whole or in part, to methods of, or in the performance of, abortions or involuntary sterilization as a means of family planning.
20. Companies which are treated as inverted corporations under 6 U.S.C. 395(b).

¹² This does not apply to the purchase and use of bonded asbestos cement sheeting where the asbestos content is less than 20%.

¹³ Forced labor means all work or service, not voluntarily performed, that is exacted from an individual under threat of force or penalty, such as indentured labor, bonded labor, or similar labor-contracting arrangements.

¹⁴ Child labor means the employment of children (persons below the age of 18) that is economically exploitative, or is likely to be hazardous to or interfere with the child’s education, or be harmful to the child’s health or physical, mental, spiritual, moral, or social development.

APPENDIX C – World Bank Group Environmental, Health and Safety (EHS) Guidelines

https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/policies-standards/ehs-guidelines

General EHS Guidelines

Industry Sector Guidelines

Forestry

- Board and Particle-based Products
- Sawmilling and Wood-based Products
- Forest Harvesting Operations
- Pulp and Paper Mills

Agribusiness/Food Production

- Mammalian Livestock Production
- Poultry Production
- Perennial Crop Production
- Annual Crop Production
- Aquaculture
- Sugar Manufacturing
- Vegetable Oil Processing
- Dairy Processing
- Fish Processing
- Meat Processing
- Poultry Processing
- Breweries
- Food and Beverage Processing

General Manufacturing

- Cement and Lime Manufacturing
- Ceramic Tile and Sanitary Ware Manufacturing
- Glass Manufacturing
- Construction Materials
- Extraction Textiles Manufacturing
- Tanning and Leather Finishing
- Semiconductors and Electronics Manufacturing
- Printing
- Foundries
- Integrated Steel Mills
- Base Metal Smelting and Refining
- Metal, Plastic, Rubber Products Manufacturing

Oil and Gas

- Offshore Oil and Gas Development
- Onshore Oil and Gas Development
- Liquefied Natural Gas (LNG) Facilities

Infrastructure

- Tourism and Hospitality
- Development Railways Ports, Harbors and Terminals Airports
- Airlines Shipping
- Gas Distribution Systems
- Toll Roads
- Telecommunications
- Crude Oil and Petroleum Product
- Terminals
- Retail Petroleum Networks
- Health Care Facilities
- Waste Management Facilities
- Water and Sanitation

Chemicals

- Pharmaceuticals and Biotechnology Manufacturing
- Coal Processing
- Natural Gas Processing
- Oleochemicals Manufacturing
- Nitrogenous Fertilizer Manufacturing
- Phosphate Fertilizer Manufacturing
- Pesticides Formulation, Manufacturing and Packaging
- Petroleum-based Polymer Manufacturing
- Petroleum Refining
- Large Volume Petroleum-based Organic Chemicals Manufacturing
- Large Volume Inorganic Compounds Manufacturing and Coal Tar Distillation

Mining

- Mining

Power

- Wind Energy
- Geothermal Power Transmission and Distribution
- Thermal Power

APPENDIX D – Glossary

Advanced Biofuel – means **Renewable Fuel**, other than ethanol derived from cornstarch, which has lifecycle **Greenhouse Gas** emissions that are at least 50 percent less than baseline **Greenhouse Gas** emissions.

Annual Country Reports on Human Rights Practices – Reports that are submitted annually by the U.S. Department of State to the U.S. Congress in compliance with sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 (FAA), as amended, and section 504 of the Trade Act of 1974, as amended.

Applicants – Investors, lenders, insurers or projects sponsors seeking DFC support.

Area of Influence – Areas potentially affected by a project including (1) the primary project site(s) and related facilities that the **Applicant** develops or controls, such as power transmission corridors, pipelines, canals, tunnels, access roads, borrow and disposal areas and construction camps; (2) associated facilities that are not funded as part of the project (funding may be provided separately by the **Applicant** or by third parties including the government), and whose viability and existence depend exclusively on the project and whose goods and services are essential for the successful operation of the project; (3) areas and communities potentially affected by cumulative impacts that result from the incremental impact on areas or resources used or directly impacted by the project, and from any existing, planned or reasonably defined developments at the time the risks and impacts identification process is conducted; and (4) areas and communities potentially affected by impacts from unplanned but predictable developments caused by the project that may occur later or at a different location. The **Area of Influence** does not include potential impacts that might occur without the project or independently of the project. Any identifiable supply chain expansion of materials or resource development that is inherent to a project's success should be included within a project's Area of Influence.

Baseline Audit - An assessment of environmental and social impacts of pre-existing or ongoing activities that is required for all Category A projects that involve the acquisition of pre-existing facilities or new construction on a site where prior industrial activities have occurred.

Broad Community Support – The collective expression by **Project Affected People**, through individuals or their recognized representatives, in support of a project. **Broad Community Support** may exist even if some individuals or groups object to a project.

Biomass-based Diesel – A **Renewable Fuel** that has lifecycle **Greenhouse Gas** emissions that are at least 50 percent less than 2005 baseline lifecycle **Greenhouse Gas** emissions and (1) is a transportation fuel, fuel additive, heating oil or jet fuel; (2) meets the definition of either biodiesel or non-ester; and (3) is approved for use as a motor vehicle fuel or fuel additive. Renewable fuel that is co-processed with petroleum is not **Biomass-based Diesel**.

Build Act of 2018 - Better Utilization of Investments Leading to Development Act of 2018, Division F of Public Law 115-254

Categorically Prohibited Project – A project of the type listed in Appendix B where potential adverse environmental or social impacts of the project preclude DFC support.

Cellulosic Biofuel – A **Renewable Fuel** derived from any cellulose, hemi-cellulose or lignin that has lifecycle **Greenhouse Gas** emissions that are 60 percent less than the 2005 baseline lifecycle **Greenhouse Gas** emissions.

Climate-related Risks – Combination of the magnitude of the potential consequence(s) of climate change impacts) and the likelihood that the consequence(s) will occur.

Climate-related Vulnerability – The degree to which a system is susceptible to, or unable to cope with, adverse effects of climate change, including variability and extremes.

Vulnerability is a function of the character, magnitude and rate of climate variation to which a system is exposed, its sensitivity and its adaptive capacity.

CO_{2eq} – Carbon Dioxide Equivalents are a metric measure used to compare the emissions from various **Greenhouse Gases** based upon their global warming potential (GWP) over a given timeframe. The carbon dioxide equivalent for a gas is derived by multiplying the tonnes of the gas by the associated GWP. For example, the 100-year GWP for methane (CH₄) is 28 and for nitrous oxide (N₂O) 265. This means that the emissions of 1 million metric tonnes of methane and nitrous oxide respectively are equivalent to emissions of 28 and million metric tonnes of carbon dioxide.¹⁵

Critical Forest Areas - A type of **Natural Forest** that qualifies as **Critical Natural Habitat**. **Critical Forest Areas** include primary **Forests** and old growth **Forests** that may serve as critical carbon sinks.

Critical Natural Habitats - (1) Existing internationally recognized protected areas, areas initially recognized as protected by traditional local communities (e.g., sacred groves), and sites that maintain conditions vital to the viability of protected areas (as determined by the environmental assessment procedure); and (2) Sites identified on supplementary lists by authoritative sources identified by DFC. Such sites may include areas recognized by traditional local communities (e.g., sacred groves), areas with known high suitability for biodiversity conservation and sites that are critical for vulnerable, migratory or endangered species. Listings are based on systematic evaluations of such factors as species richness, the degree of endemism, rarity, and vulnerability of component species, representativeness and the integrity of ecosystem processes.

Cultural Heritage – Tangible property or sites having archaeological (prehistoric), paleontological, historical, cultural, artistic and religious value, as well as unique environmental features that embody cultural values, such as sacred groves. **Cultural Heritage** also includes intangible forms of culture, such as cultural knowledge, innovations and practices of communities embodying traditional lifestyles.

DFC Agreement – A DFC loan agreement, guaranty agreement, project consent or insurance contract.

Direct Emissions – Emissions from sources that are owned or controlled by a project, including stationary combustion emissions, mobile combustion emissions, process emissions and fugitive emissions.

Economic Displacement – Loss of assets or access to assets that leads to loss of income sources or means of livelihood.

Energy Intensive Sectors – Projects in the following sectors: aluminum, brewing, cement, mining, corn refining, forest products, glass, metal casting, motor vehicle manufacturing, oil and natural gas production, petroleum refining, pharmaceuticals, pulp and paper, steel and iron, and thermal power.

Environmental and Social Action Plan (ESAP) – A systematic program designed to prevent, mitigate and monitor anticipated environmental and social impacts of prospective and ongoing activities. Required on all Category A projects. The **ESAP** provides an implementation schedule for measures that must be carried out as part of the project showing phasing and coordination with overall implementation plans and the capital and recurrent costs estimates and sources of funds for implementing the **ESAP**.

Environmental and Social Impact Assessment (ESIA) – A comprehensive analytical body of work designed to evaluate environmental and social impacts of major projects having the potential to have significant, diverse and irreversible impacts on the natural environment and on humans dependent on that environment. Required for all Category A projects involving new (greenfield) developments or significant expansion of existing facilities.

Environmental and Social Management System (ESMS) – Part of a project's overall management system that includes the organizational structure, responsibilities, practices and resources necessary for implementing the project-specific management program developed through the environmental and social assessment of the project.

Executive Order – An order issued by the President, the head of the executive branch of the federal government.

Extractive Industry – An enterprise engaged in the exploration, development, or extraction of oil and gas reserves, metal ores, gemstones, industrial minerals (except rock used for construction purposes), or coal.

Federal Register – The official daily publication for rules, proposed rules, and notices of Federal agencies and organizations, as well as **Executive Orders** and other presidential documents.

Financial Intermediary – Investment funds, banks or other financial institutions, or other entities or vehicles that receive financing, guaranties or insurance.

Forest – An area of land not less than 1.0 hectare with a tree crown cover (or equivalent stocking level) of more than 10 percent that has trees with the potential to reach a minimum height of 2 meters at maturity *in situ*. A **Forest** may consist of either closed forest formations, where trees of various stories and undergrowth cover a high proportion of the ground, or open **Forest**. Young natural stands and all plantations that have yet to reach a crown density of 10 percent or tree height of 2 meters are included under **Forest**, as are areas normally forming part of the forest area that are temporarily unstocked as a result of human intervention such as harvesting or natural causes but that are expected to revert to **Forest**. The definition includes **Forests** dedicated to forest production, protection, multiple uses, or conservation, whether formally recognized or not. The definition excludes areas where other land uses not dependent on tree cover predominate, such as agriculture, grazing or settlements. In countries with low forest cover, the definition may be expanded to include areas covered by trees that fall below the 10 percent threshold for canopy density, but are considered **Forest** under local conditions.

¹⁵ GWP values from the IPCC Fifth Assessment Report, 2014.

Generalized System of Preferences (GSP) – A trade preferences program, overseen by the **USTR** that provides preferential duty-free entry for products from designated beneficiary countries and territories with the purpose of promoting economic growth in the developing world.

Greenhouse Gases – The following six gases or class of gases: carbon dioxide (CO₂), nitrous oxide (N₂O), methane (CH₄), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF₆).

Host Country Notification – A notification to government officials in the country where a Category A project is located that identifies international guidelines and standards and restrictions under U.S. law that would be applicable to the project.

Human Rights – Those rights expressed in the International Bill of Rights and the principles concerning fundamental rights set out in the International Labour Organization's Declaration on Fundamental Principles and Rights at Work.

Industry Sector Guidelines – Technical reference documents issued by the **International Finance Corporation** with general and industry specific performance levels and measures.

International Finance Corporation (IFC) – An affiliate of the World Bank group that makes loans to and investments in, private sector projects in developing countries and emerging markets.

International Labour Organization (ILO) – The tripartite United Nations agency that brings together governments, employers and workers of its member states in common action to promote decent work throughout the world.

Internationally Recognized Worker Rights – The term, as specified in the Trade Act of 1974 (as amended), includes: (1) the right of association; (2) the right to organize and collective bargaining; (3) prohibition on forced labor and the worst forms of child labor; (4) a minimum age for the employment of children; and (5) acceptable conditions of work with respect to minimum wages, hours of work, and occupational health and safety.

Labor Rights – Rights of **Workers**, which includes **Internationally Recognized Worker Rights**, and protection from discrimination with respect to employment and occupation on the basis of personal characteristics that are unrelated to inherent job requirements.

Life Cycle Accounting – An analytical method used for evaluating and comparing the climate change implications of a product or system. For the purposes of this policy, the boundary definition of the analysis for both the project and the “no project” alternative includes raw material input acquisition, raw material transport, energy conversion and product transport to consumers.

Mitigation Hierarchy – A system used to anticipate and avoid, or where avoidance is not possible, minimize, and, where residual impacts remain, compensate/offset risks and impacts to the environment.

Meaningful Consultation – A process that (1) begins early in the project preparation stage and is carried out on an on-going basis throughout the project life cycle; (2) provides timely disclosure of relevant and adequate information that is understandable and readily accessible to **Project Affected People**; (3) is undertaken in an atmosphere free of intimidation or coercion; (4) is gender inclusive and responsive, and tailored to the needs of disadvantaged and vulnerable groups; and

(5) enables the incorporation of all relevant views of affected people and other **Stakeholders** into decision making, such as project design, mitigation measures, the sharing of development benefits and opportunities, and implementation issues.

Office of the U.S. Trade Representative (USTR) – An agency of the U.S. Government that is responsible for developing and coordinating U.S. international trade, commodity, and direct investment policy, and overseeing negotiations with other countries.

Performance Standards – Technical reference documents issued by the **International Finance Corporation** with environmental and social impact management performance criteria.

Physical Displacement – Relocation or loss of shelter.

Presidential Proclamation – An instrument that states a condition, declares a law and requires obedience, recognizes an event or triggers the implementation of a law (by recognizing that the circumstances in law have been realized).

Project – All facilities owned or controlled within a physical project boundary that constitute a commercially viable business unit eligible for DFC support.

Project Affected People – Individuals, workers, groups or local communities, including within the supply chain, which are or could be affected by the project's Area of Influence, directly or indirectly, including as a result of cumulative impacts. Emphasis should be placed on those who are directly and adversely affected, disadvantaged or vulnerable.

Remediation Plan – A systematic program designed to reverse adverse environmental and social impacts of previous activities at a site. The **Remediation Plan** will provide an implementation schedule for the measures that must be carried out as part of the project, and capital and recurrent costs estimates and sources of funds for implementing the **Remediation Plan**.

Renewable Biomass – Each of the following (including any incidental *de minimis* contaminants that are impractical to remove and are related to customary feedstock production and transport): (1) planted crops and crop residue harvested from existing agricultural land cleared or cultivated prior to December 19, 2007 and that was non-forested and either actively managed or fallow on December 19, 2007; (2) planted trees and tree residue from a tree plantation that was cleared at any time prior to December 19, 2007 and actively managed on December 19, 2007; (3) animal waste material and animal byproducts; (4) slash and pre-commercial thinning from forestland that is not ecologically sensitive; (5) biomass (organic matter that is available on a renewable or recurring basis) obtained from the immediate vicinity of buildings and other areas regularly occupied by people or public infrastructure, in an area at risk for wildfire; (6) algae; and (7) separated yard waste and food waste, including recycled cooking and trap grease and separated municipal solid waste.

Renewable Energy Resources – Energy resources that are naturally replenishing but flow- limited. They are virtually inexhaustible in duration but limited in the amount of energy that is available per unit of time. Renewable energy resources include biomass, hydro, geothermal, solar, wind, ocean thermal, wave action, and tidal action.

Renewable Fuel – A fuel that meets the following criteria: (1) a fuel produced from **Renewable Biomass** (2) a fuel that is used to replace or reduce the quantity of fossil fuel present in a transportation fuel, heating oil or jet fuel; and (3) a fuel that has lifecycle **Greenhouse Gas** emissions that are at least 20 percent less than 2005 baseline lifecycle **Greenhouse Gas** emissions.

Retrenchment – The elimination of a significant number of **Workers** or the dismissal or layoff of a significant number of **Workers**, generally by reason of project closing or for cost savings. Retrenchment does not include isolated cases of termination of employment for cause or voluntary departure.

Social Risk Due Diligence – Process through which the Applicant identifies and manages heightened risks pertaining to Project Affected People, including communities and Workers, and related to socioeconomic status, vulnerability, gender, Human Rights, Cultural Heritage, Labor Rights and working conditions, health and safety, security, and participation in decision making. Includes risk identification, consultation with **Project Affected People** and **Workers**, and resulting management and monitoring programs. Process can be integrated into the Applicant's **Environmental and Social Management System** provided it identifies, manages, and communicates risks to **Project Affected People** and **Workers**.

Special Consideration – A screening classification that is applied to a project when there are heightened social risks within a project. The decision to designate a project as **Special Consideration** will take into consideration the significance of the social risk, as determined by the scale and severity of the potential impacts and vulnerability of the affected people. The **Special Consideration** classification of a project indicates (1) a project's heightened potential for **Labor Rights** or **Human Rights** risks or impacts; and (2) a higher risk to **Workers** or **Project Affected People**.

Stakeholder – **Stakeholders** are persons or groups who are directly or indirectly affected by a project, as well as those who may have interests in a project and/or the ability to influence its outcome, either positively or negatively. **Stakeholders** may include **Project Affected People** and their formal and informal representatives, national or local government authorities, politicians, religious leaders, civil society organizations and groups with special interests, the academic community, or other businesses.

Subproject – A project or enterprise that receives financing or investment from a DFC-supported **Financial Intermediary**.

U.S. Department of Labor – An agency of the U.S. Government that is responsible for administering labor laws on working conditions, unemployment insurance benefits and re-employment services, and tracks national economic measurements.

U.S. Department of State – An agency of the U.S. Government that is responsible for the international relations of the United States.

Workers – Individuals who are employed directly by the project or under a project contract, and who perform on-site work for a substantial duration of time on a project or are material to the primary operations of a project. Workers can be temporary or permanent.