



DEPARTMENT OF COMMERCE

Census Bureau

15 CFR Part 90

[Docket No. 260108-0019]

RIN 0607-AA72

Clarifying and Streamlining the Regulatory Procedures for Requesting a Challenge to the Census Bureau's Annual Population Estimates

AGENCY: Census Bureau, Department of Commerce.

ACTION: Final rule.

SUMMARY: By this rule, the Census Bureau (Bureau) amends and removes certain regulations governing the program for challenging the Bureau's annual population estimates (Population Estimates Challenge Program). This action will improve and streamline the regulations by clarifying that part 90 pertains to *requests* to challenge the Bureau's annual population estimates, properly introducing an acronym used throughout part 90, eliminating inconsequential language, and amending or removing provisions that impose undue restrictions or requirements on potential challengers. The intended effect is to create a more efficient, clear, and accessible process for governmental units to request a challenge to the Bureau's population estimates, thereby promoting accuracy and accountability.

DATES: The rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Amel Toukabri, Chief, Local Government Estimates and Migration Processing Branch, 301-763-2461, and POP.Challenge@census.gov.

SUPPLEMENTARY INFORMATION:

I. Background

A. Regulatory History

The Bureau is amending its regulations at 15 CFR part 90, which govern the Population Estimates Challenge Program. For context, the Bureau produces population estimates pursuant to 13 U.S.C. 4 and 13 U.S.C. 181. The Bureau mostly recently revised the program for challenging such estimates through a final rule published on March 24, 2023 (88 FR 17705). The aim of this program is to ensure the accuracy of the Bureau’s annual population estimates by providing governmental units a formal process for requesting a review of, submitting additional data for, and identifying potential errors in the Bureau’s estimates.

B. Description of the Regulations

Part 90 consists of nine regulatory sections: §§ 90.1, 90.2, 90.3, 90.4, 90.5, 90.6, 90.7, 90.8, and 90.9.

Section 90.1 addresses the scope and applicability of part 90. It explains that, “[b]etween decennial censuses, the Census Bureau annually prepares statistical estimates of the number of people residing in States and their governmental units.” 15 CFR 90.1. It further explains that these estimates generally “are developed by updating the population counts produced in the most recent decennial census with demographic components of change data and/or other indicators of population change.” *Id.* And it notes that the rules set forth in part 90 “prescribe the administrative procedure available to governmental units to request a challenge to the most current of these estimates.” *Id.*

Section 90.2 states that “[i]t is the policy of the Census Bureau to provide the most accurate population estimates possible given the constraints of resources and available statistical techniques.” 15 CFR 90.2. Section 90.2 further states that “[i]t is also the policy of the Census Bureau, to the extent feasible, to provide governmental units the opportunity to seek a review of and provide additional data for these estimates and to present evidence relating to the accuracy of the estimates.” *Id.*

Section 90.3 recognizes various definitions. 15 CFR 90.3. In particular, § 90.3(g) notes that, “For the purposes of this program, an *eligible governmental unit* also includes the District

of Columbia and non-functioning counties or statistical equivalents represented by an FSCPE member agency (*i.e.*, a Federal-State Cooperative for Population Estimates member agency).” *Id.*

Section 90.4 is titled “General” and states that “[t]his part provides a procedure for a governmental unit to request a challenge of a population estimate of the Census Bureau.”

15 CFR 90.4. It further states that “[t]he Census Bureau, upon receipt of the appropriate documentation, will attempt to resolve the estimate with the governmental unit.” *Id.*

Section 90.5. addresses the matter of “[w]ho may file a challenge” to the annual population estimates. 15 CFR 90.5. Specifically, it states that “[a] request for a challenge of a population estimate generated by the Census Bureau may be filed only by the chief executive officer or highest elected official of a governmental unit.” *Id.* It goes on to state that “[i]n those instances where the FSCPE member agency represents a non-functioning county or statistical equivalent, the governor will serve as the chief executive officer or highest elected official.” *Id.*

Section 90.6 addresses the matter of “[w]hen a challenge may be filed.” 15 CFR 90.6. Subsection (a) states that “[a] request for a challenge to a population estimate may be filed any time up to 90 days after the release of the estimate by the Census Bureau,” that “[p]ublication by the Census Bureau on its website (www.census.gov) shall constitute release,” and that “[d]ocumentation requesting a challenge of any estimate may also be filed any time up to 90 days after the date the Census Bureau, on its own initiative, revises that estimate.”

15 CFR 90.6(a). Subsection (b) then clarifies that “[i]f, however, a governmental unit has a sufficiently meritorious reason for not filing in a timely manner, the Census Bureau has the discretion to accept the late request.” 15 CFR 90.6(b).

Section 90.7 addresses the matter of where to file a challenge. Specifically, it provides that “[a] request for a population estimate challenge must be prepared in writing” and sent to the Chief of the Population Division of the Bureau either via email or at a physical address specified elsewhere. 15 CFR 90.7. It also requires that any governmental unit submitting such a request

“designate a contact person who can be reached by telephone or email during normal business hours should questions arise with regard to the submitted materials.” *Id.*

Section 90.8 addresses the matter of what evidence is required for such challenges. 15 CFR 90.8. Subsection (a) opens by stating that “[t]he governmental unit shall provide whatever evidence it has relevant to the request at the time of filing” and that “[t]he Census Bureau may request further evidence when necessary.” 15 CFR 90.8(a). But, as relevant, subsection (a) also states that “[t]he evidence submitted must be consistent with the criteria, standards, and regular processes the Census Bureau employs to generate the population estimate.” *Id.* Subsection (a) goes on to make clear that “[t]he Census Bureau will only accept a challenge when the evidence provided indicates the use of incorrect data, processes, or calculations in the estimates” and that the Census Bureau “cannot accept estimates developed from methods different from those used by the Census Bureau.” *Id.*

Lastly, § 90.9 addresses the process of reviewing challenges. Specifically, it states that “[t]he Chief, Population Division, Census Bureau, or the Chief’s designee shall review the evidence provided with the request for the population estimate challenge, shall work with the governmental unit to verify the data provided by the governmental unit, and evaluate the data to resolve the issues raised by the governmental unit.” 15 CFR 90.9. It also states that “the designated FSCPE agencies are encouraged to serve as conduits with local governments in the review of pre-release estimates, to the extent that this is possible given data confidentiality requirements for pre-release data.” *Id.* And it concludes by stating that “the Census Bureau shall respond in writing with a decision to accept or deny the challenge. In the event that the Census Bureau finds that the population estimate should be updated, it will also post the revised estimate on the Census Bureau’s website (www.census.gov).” *Id.*

II. Discussion

The Bureau is amending its regulations at 15 CFR part 90 to improve and streamline the Population Estimates Challenge Program. Specifically, the Bureau is (i) enhancing clarity by

amending language throughout part 90 to consistently reflect that part 90 establishes a procedure for *requesting* a challenge to the Bureau’s estimates, *see* 15 CFR 90.4, 90.5, 90.6, 90.7, 90.9; (ii) enhancing clarity by expressly introducing the acronym FSCPE for “Federal-State Cooperative for Population Estimates,” *see* 15 CFR 90.3(g); (iii) eliminating inconsequential language within 15 CFR 90.4, 90.9; and (iv) removing or amending provisions that impose undue requirements and restrictions on challengers, *see* 15 CFR 90.6(b), 90.8(a). The Bureau is making these changes to reduce regulatory complexity and confusion, alleviate the burden on potential challengers, and promote accuracy and accountability with respect to the Bureau’s annual population estimates.

Clarifying that Part 90 Pertains to Requests to Challenge the Bureau’s Estimates

First, the Bureau is amending language throughout part 90 to consistently reflect that part 90 establishes a process for *requesting* a challenge. Much of the language throughout part 90—particularly, the language used in the titles of sections—omits any acknowledgment of the fact that government units must request to file such a challenge. *See* 15 CFR 90.5 (titled “Who may file a challenge”); 15 CFR 90.6 (titled “When a challenge may be filed”); 15 CFR 90.7 (titled “Where to file a challenge”); 15 CFR 90.9 (titled “Review of challenge”). The Bureau is tweaking the titles of §§ 90.5, 90.6, 90.7, and 90.9 to more clearly reflect that part 90 pertains, most directly, to *requests* for challenges.

Enhancing the Clarity of the Discussion of Federal-State Cooperative for Population Estimates (FSCPE)

The Bureau is also enhancing the clarity of the references in part 90 to “FSCPE.” That acronym is currently used three times throughout part 90, *see* 15 CFR 90.3(g), 90.5, 90.9, but it is never formally introduced and explained. The Bureau is therefore amending the first use of the acronym “FSCPE” (§ 90.3(g)) to explain that it stands for Federal-State Cooperative for Population Estimates.

Elimination of Unnecessary and Inconsequential Provisions

Next, the Bureau is eliminating two regulatory provisions that are unnecessary and inconsequential.

Section 90.4 states that part 90 “provides a procedure for a governmental unit to request a challenge of a population estimate of the Census Bureau” and also that the Bureau will “attempt to resolve the estimate with the governmental unit.” 15 CFR 90.4. The Bureau has determined that § 90.4 is unnecessary and appropriate for removal, particularly in light of §§ 90.1 and 90.2, which sufficiently introduce the purpose of part 90 and the Bureau’s commitment to resolving estimate disputes to the extent feasible.

Section 90.9 addresses the process of reviewing challenges, and, in pertinent part, it states that “designated FSCPE agencies are encouraged to serve as conduits with local governments in the review of pre-release estimates.” 15 CFR 90.9. This language is purely advisory and lacks any substantive, regulatory effect. Accordingly, the Bureau has determined that it is appropriate for removal to simplify part 90 and minimize the risk of distraction and/or confusion.

Amending Unduly Restrictive Provisions

Lastly, the Bureau is amending two substantive provisions within part 90 to reduce the administrative hurdles that potential challengers must overcome and to enable governmental units to bring legal challenges more freely. Such amendments are intended to reduce regulatory burden and to promote accuracy and public confidence.

Section 90.6(b), for instance, establishes an exception to the general deadline and provides that the Bureau has the discretion to accept late requests if the governmental unit “has a sufficiently meritorious reason for not filing in a timely manner.” 15 CFR 90.6(b). Upon review, the Bureau has determined that this “sufficiently meritorious reason” language should be removed, as there could be an instance in which a population challenge is compelling and ought to be considered even though the relevant governmental unit lacks a “sufficiently meritorious reason” for missing the deadline. The Bureau believes that removing the “sufficiently meritorious reason” language from § 90.6(b) will better account for such instances without

creating any meaningful concerns, considering the language is already quite opaque and malleable.

Section 90.8(a) expressly restricts the kinds of evidence that challengers may submit, requiring that it be consistent with the criteria, standards, and regular processes employed by the Bureau and not developed from any other methods. 15 CFR 90.8(a). It then also states that “[t]he Census Bureau will only accept a challenge when the evidence provided indicates the use of incorrect data, processes, or calculations in the estimates.” Upon review, the Bureau has determined that this final sentence is unnecessary, given the preceding language, and potentially unduly restrictive. Removing the final sentence of § 90.8(a) is consistent with the Department’s broader effort to streamline its regulations and reduce regulatory complexity.

The Bureau believes that these two amendments strike a more appropriate balance of interests and will better facilitate challenges to the Bureau’s population estimates at an acceptable cost to the Bureau.

In sum, the Bureau is amending §§ 90.3, 90.4, 90.5, 90.6, 90.7, 90.8, and 90.9 as described above to streamline and improve the regulations governing Population Estimates Challenge Program.

III. Regulatory Classifications

A. Administrative Procedure Act

Pursuant to 5 U.S.C. 553(b)(B), the Department of Commerce (Department) finds good cause to waive the prior notice and opportunity for public participation requirements of the Administrative Procedure Act for this final rule. The Department considers this rule to be uncontroversial, and has determined that prior notice and opportunity for public participation is unnecessary, because this rule only (1) adds some missing, clarifying language; (2) eliminates inconsequential regulatory language; and (3) removes two, statutorily-unnecessary regulatory restrictions imposed on requests to challenge the Bureau’s annual population estimates. The appropriateness of these amendments and removals pursuant to the Department’s broader

deregulatory effort would not be affected by public comment, as they enhance clarity and reduce unnecessary regulatory complexity and obstacles for the public; they do not impair or otherwise negatively affect stakeholders' rights under part 90. For the same reasons, the Department has determined that delaying the effectiveness of these amendments would be contrary to the public interest. The regulatory language being amended or removed by this rule unnecessarily poses some risk of confusion and inefficiency; its removal will immediately benefit the public at little to no cost. The Department therefore finds good cause to waive the public notice and comment period under 553(b)(B) and to waive the 30-day delay in effectiveness under 553(d).

B. Executive Orders 12866, 14192, 13132

The Office of Management and Budget has determined this rule is not significant pursuant to Executive Order (E.O.) 12866. This rule is an E.O. 14192 deregulatory action. This rule does not contain policies having federalism implications as the term is defined in E.O. 13132.

C. Regulatory Flexibility Act

Because a notice of proposed rulemaking and an opportunity for public participation are not required to be given for this rule by 5 U.S.C. 553(b)(B), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Accordingly, no regulatory flexibility analysis is required, and none has been prepared.

D. Paperwork Reduction Act

This rule will not impose additional reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

List of Subjects for 15 CFR Part 90

Administrative practice and procedure, Census data, Reporting and recordkeeping requirements, State and local governments, Statistics.

Dated: January 20, 2026.

George Cook,
Chief of Staff to the Under Secretary for Economic Affairs
performing the non-exclusive functions and duties of
the Director of the Census Bureau.

For the reasons set forth in the preamble, the Census Bureau amends 15 CFR part 90 to read as follows:

PART 90 – PROCEDURE FOR CHALLENGING POPULATION ESTIMATES

1. The authority citation for part 90 continues to read as follows:

Authority: 13 U.S.C. 4 and 181.

2. Revise § 90.3(g) to read as follows:

§ 90.3 Definitions.

* * * * *

(g) An *eligible governmental unit*, for the purposes of this program, also includes the District of Columbia and non-functioning counties or statistical equivalents represented by a Federal-State Cooperative for Population Estimates (FSCPE) member agency.

§ 90.4 [Removed and Reserved]

3. Remove and reserve § 90.4.

4. Revise the section heading of § 90.5 to read as follows:

§ 90.5 Who may file a request for a challenge.

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5. In § 90.6 revise the section heading and paragraph (b) to read as follows:

§ 90.6 When a request for a challenge may be filed.

* * * * *

(b) The Census Bureau has the discretion to accept late requests.

6. Revise the section heading of § 90.7 to read as follows:

§ 90.7 Where to file a request for a challenge.

* * * * *

7. Revise § 90.8(a) to read as follows:

§ 90.8 Evidence required.

(a) The governmental unit shall provide whatever evidence it has relevant to the request at the time of filing. The Census Bureau may request further evidence when necessary. The evidence submitted must be consistent with the criteria, standards, and regular processes the Census Bureau employs to generate the population estimate. Currently, the Census Bureau challenge process cannot accept estimates developed from methods different from those used by the Census Bureau.

* * * * *

8. Revise § 90.9 to read as follows:

§ 90.9 Review of a request for a challenge.

The Chief, Population Division, Census Bureau, or the Chief's designee shall review the evidence provided with the request for the population estimate challenge, shall work with the governmental unit to verify the data provided by the governmental unit, and evaluate the data to resolve the issues raised by the governmental unit. Thereafter, the Census Bureau shall respond in writing with a decision to accept or deny the challenge. In the event the Census Bureau finds that the population estimate should be updated, it will also post the revised estimate on the Census Bureau's website (www.census.gov).